

DEPARTMENT OF JUSTICE CIVIL RIGHTS REFORMS IN THE ADMINISTRATION OF JUVENILE JUSTICE: 2012 – PRESENT

In just three years, the Department of Justice's Civil Rights Division has undertaken significant efforts to address disparities and overreliance on juvenile justice and incarceration in America by focusing more intensively on the pathways into and early interactions with the criminal justice system; examining fairness and equity in juvenile arrests, court processes and probation; and working to eliminate the detention practices that are most harmful to youth. This work is grounded in the Attorney General's authority to bring lawsuits to remedy a pattern or practice of constitutional or federal law violations by any official or employee of a government agency responsible for the administration of juvenile justice.

The department has opened or released findings in four juvenile justice administration cases. The department has also articulated the standards for constitutionally adequate juvenile indigent defense, amplifying principles set out nearly 50 years ago by the U.S. Supreme Court.

Resolved Through Settlement: Juvenile Court of Shelby County, Memphis, Tennessee

- On April 26, 2012, the department released findings that Shelby County's juvenile justice system was failing to provide constitutionally required due process for children accused of being delinquent and equal protection under law for accused African-American children. The department also found that the court violated the substantive due process rights of detained youth by not providing them with reasonably safe conditions of confinement.
- On Dec. 17, 2012, the department announced an agreement with the county and juvenile court that spelled out the corrective measures necessary to eradicate the constitutional violations. The agreement's includes measures on (1) substantive reforms of the due process, equal protection and facility issues; (2) community engagement; and (3) independent review by subject matter experts.
- Implementation of the agreement's requirements is making a difference in the lives of children in Shelby County.

For example:

- Funding and support for juvenile indigent defense has increased.
- Data shows consistent improvement in the court's providing youth with key tenets of due process, including notice of charges and their rights, and timely hearings.
- Fewer children are being detained unnecessarily at the court's detention facility.
- Efforts are underway to reduce the unnecessary involvement of African-American children in the juvenile justice system.
- Use of force at the detention center has significantly decreased.

Partial Settlement and Ongoing Litigation: *United States v. City of Meridian, et al.*

- On Oct. 24, 2012, the department filed its first lawsuit using its juvenile justice administration authority. The lawsuit:

- Challenged the Meridian, Mississippi, Police Department's prior practice of arresting youth for often minor school-based offenses without probable cause.
 - Alleged that Lauderdale County, Mississippi, and the County Youth Court Judges engaged in a pattern or practice of due process violations in court proceedings.
 - Alleged that Lauderdale County, the Youth Court Judges and the state of Mississippi unlawfully incarcerated youth on probation for school suspensions and expulsions.
- On June 19, 2015, the department announced the settlement of its police and youth probation claims through court-enforceable agreements with the city of Meridian and the state of Mississippi.
- If approved by the Federal Court:
- Police reforms will include prohibiting city of Meridian police officers from arresting youth for behavior that is appropriately addressed as a school discipline issue and requiring documented probable cause determinations for any youth arrested for criminal offenses.
 - Probation reforms will include requiring state of Mississippi probation officers to implement measures to protect young people's privilege against self-incrimination, providing them with age-appropriate explanations of their rights and the probation process, revising probation contracts so that they are easily understandable to youth, and limiting when the state can recommend incarceration for violations of young people's probation contracts that would not otherwise be detainable offenses.
 - The city and state will participate in programs to inform the community about the progress in implementing reforms and to hear community questions and concerns.
 - Each agreement will be monitored by an independent auditor who will report publicly to the federal court.
- The June 2015 agreements do not resolve the department's claims that Lauderdale County and the Lauderdale County Youth Court Judges deprive children of basic due process. The department intends to continue pursuing these claims in litigation.

Findings Released: St. Louis County, Missouri Family Court:

- On July 31, 2015, the department released findings that the St. Louis County Family Court fails to provide constitutionally required due process for children accused of being delinquent, in violation of children's rights under the Fourth, Fifth, Sixth and Fourteenth Amendments. Specifically, the department found that the court:
- fails to provide adequate representation for children in delinquency proceedings;
 - fails to adequately protect children's privilege against self-incrimination;
 - fails to provide adequate probable cause determinations to children facing delinquency charges;
 - fails to adequately consider probable cause before "certifying" a child to be criminally tried in adult criminal court;

- fails to ensure that children's guilty pleas are entered knowingly and voluntarily, in violation of children's rights; and
 - maintains an organizational structure that is rife with conflicts of interest, is contrary to separation of powers principles and that deprives children of adequate due process.
- The department also found that the St. Louis County Family Court fails to provide equal protection under law for accused African-American children at key decision points within the system. The department found that the court violates the Fourteenth Amendment by treating Black children differently, even after controlling for such factors as gender, age, risk and the severity of the allegation involved.

Specifically:

- Black children are almost one-and-a-half times (1.46) more likely than White children to have their cases handled formally.
- Black youth are two-and-a-half times (2.50) more likely to be detained (i.e., held in custody) pretrial than White children.
- When Black children are under the supervision of the Court and violate the conditions equivalent to probation or parole, the Court commits Black children almost three times (2.86) more often to the Missouri Division of Youth Services (i.e., in restrictive out-of-home settings) than White children who are under similar Court supervision.
- The odds of the Court placing Black youth in Division of Youth Services custody after adjudication (the juvenile equivalent of an adult conviction) are more than two-and-a-half times (2.74) the odds of White youth placement.

Ongoing Investigation:

- **Dallas County, Texas Truancy Court and Juvenile District Courts:** Ongoing investigation into due process and disability discrimination issues, announced March 31, 2015.

Statement of Interest on Indigent Juvenile Defense: *N.P., et al. v. State of Georgia, et al.*

- On March 13, 2015, the department filed a statement of interest in this state court proceeding challenging the alleged inadequacies of a local public defense system. The department asserted that children are denied their right to counsel not only when an attorney is entirely absent, but also when an attorney is available in name only. The department provided the court with a framework to assess the plaintiffs' claim that young people accused of delinquency were denied their right to counsel.
- On April 22, 2015, less than six weeks after the department filed its statement of interest, the court approved a settlement that is consistent with the principles we articulated, including enhanced resources, and support for defenders, prompt access to a lawyer after arrest and detention, and protections against uninformed waiver of counsel.