Dear Judge Michael:

We write to provide you with the latest assessment of the Court’s progress in implementing the Protection from Harm provisions of our December 17, 2012 Memorandum of Agreement. The accompanying assessment is the fifth since entry of the Agreement.

Dr. David Roush, our protection from harm consultant charged with reviewing compliance with the facility provisions of the Agreement, completed his assessment after reviewing documents and touring the detention facility during the most recent compliance visit, April 27 – 30, 2015. While we have seen improvement in the detention center’s capacity to protect from harm the children in its care, there is still much to be done to achieve full compliance with the Agreement. As always, we appreciate your staff’s cooperation and assistance during the visit.

The fifth assessment report reflects a number of remaining challenges to reaching full compliance with the Agreement. First, detention center staff has expressed resistance to some new approaches required by the Agreement, giving voice to an out-dated culture of control and punishment. Dr. Roush observes that left unchanged, this culture is and will remain a significant impediment to fully realizing the benefits of the new Positive Behavior Management System (PBMS) and to further reducing the use of locked room confinement. Culture change can also impact staff approaches to providing youth with reading material in their rooms and the difficulties with providing residents with sufficient high-quality food. Only by changing culture, will staff most efficiently and effectively implement PBMS, continue the use of force reform process, and avoid backsliding.

Second, we remain concerned with the high level of room confinement reported by Dr. Roush. Dr. Roush’s report continues to rate the detention center’s level of compliance as “Partial,” the same level that he found in the second, third, and fourth assessments (there was no rating provided in the first assessment). We have also emphasized our concern with the use of room confinement in our last two cover letters. The detention center’s continued overuse of
room isolation as a suicide precaution is very troubling and we urge you to eliminate this practice between now and the next compliance tour.

Third, the detention center must pay more attention to the quality of data it collects and reports regarding essential components of the facility, including use of force, room confinement, and suicide prevention. As you know, much of Dr. Roush’s evaluation is based on the data he receives from detention center management. Confidence in the data is a prerequisite to findings of substantial compliance for a number of Agreement provisions. Of course, the detention center will also benefit from high quality data through increased operational efficiency and effectiveness.

We are confident that once fully realized, the agreement will bring you one step closer to achieving your expressed goal of making Shelby County’s juvenile justice system a model for the nation.

Sincerely,

[Signature]

Winsome G. Gayle
Special Counsel

Enclosure

cc:

Edward L. Stanton, III
United States Attorney
for the Western District of Tennessee
167 North Main Street
Suite 800
Memphis, TN 38103

Mark H. Luttrell Jr.
Mayor of Shelby County
Vasco A. Smith, Jr. County Administration Building
160 North Main Street
Memphis, TN 38103

J. Ross Dyer
County Attorney
Shelby County Government
160 N. Main Street, Suite 950
Memphis, TN 38103
Justin Ford, Chairman  
Shelby County Board of Commissioners  
160 N. Main Street, Suite 450  
Memphis, TN 38103

Stephen C. Bush  
Chief Public Defender for Shelby County  
Law Office of the Shelby County Public Defender  
201 Poplar Avenue, Second Floor  
Memphis, TN 38103

Amy P. Weirich  
District Attorney General  
Office of the Shelby County District Attorney General  
201 Poplar Avenue, Third Floor  
Memphis, TN 38103