

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

 J.H., by and through his next friend,)
 Terina Gray, on behalf of himself)
 and all persons similarly situated; T.A.,)
 by and through his next friend,)
 Alice Austin, on behalf of himself and)
 all persons similarly situated; and)
 DISABILITY RIGHTS MISSISSIPPI,)
)
)
)
 Plaintiffs,)
 v.)
)
 HINDS COUNTY, MISSISSIPPI,)
)
)
 Defendant.)
 _____)

Case No. 3:11-CV-327 DPJ-FKB

PLAINTIFFS’ MEMORANDUM IN SUPPORT OF MOTION FOR CONTEMPT

I. INTRODUCTION

In June 2011, Plaintiffs J.H. and T.A. filed a class action lawsuit against Hinds County challenging unconstitutional conditions at the Henley-Young Juvenile Justice Center (hereinafter “Henley-Young”), including unnecessary use of force, excessive cell confinement, and denial of rehabilitative treatment and services. Amended Complaint, June 6, 2011, ECF No. 5. After months of negotiation and following a fairness hearing before this Court, the parties entered into a settlement agreement (hereinafter “Settlement Agreement”), which this Court approved on March 28, 2012. Settlement Agreement, March 28, 2012, ECF No. 33. Pursuant to the Prison Litigation Reform Act (“PLRA”), this Court retained jurisdiction for monitoring and enforcement purposes. *Id.* at 3, ECF No. 33; Judgment, March 28, 2012, ECF No. 34.

In an effort to ensure compliance, this Court appointed Leonard Dixon to serve as an independent monitor to oversee implementation of the Settlement Agreement. Settlement

Agreement at 19. Mr. Dixon conducts site visits on a quarterly basis and submits monitoring reports to this Court following each official visit.¹ *Id.* The County's progress is measured by the following compliance code measurements: substantial compliance, partial compliance, beginning compliance, and non-compliance.² The monitoring reports that have been submitted to date reflect the County's minimal progress toward substantial compliance with the Settlement Agreement.³ *See* First Monitor's Report, August 15, 2012, ECF No. 35; Second Monitor's Report, December 13, 2012, ECF No. 37; Third Monitor's Report, April 15, 2013, ECF No. 38; Fourth Monitor's Report, July 9, 2013, ECF No. 39; Fifth Monitor's Report, October 9, 2013, ECF No. 40. Specifically, the County has not reached substantial compliance with any of the 71 provisions set forth in the Settlement Agreement in the twenty-three months that the agreement has been in effect. The second report reflects that the County moved to beginning compliance in 12 provisions; however, in the 14 months that followed, the County moved from beginning to

¹ In addition to his scheduled visits, in 2013, Mr. Dixon conducted unannounced visits to the facility during the weeks of January 14, April 15, July 22, and November 4. During these visits, Mr. Dixon provided technical assistance to the director and Henley-Young staff on implementation of the Settlement Agreement and conducted trainings to staff of the detention center and youth court.

² **Substantial Compliance (SC):** "Practices follow the county-approved policies, training materials or other documents; practices follow policy with rare exception and exceptions lead to corrective action; trained staff fill all positions and vacancies are filled within 3 months; the [C]ounty has completed work in an acceptable manner; policies, procedures and practice and training are operational and quality-assurance audited and audit exceptions lead to corrective action; outcomes meet or exceed agreement requirements."

Partial Compliance (PC): "Policy and procedure is implemented in some but not all locations or times; staff are hired but not trained; the [C]ounty is working on implementation but tasks are not completed; system implemented at some but not all locations or times, outcomes meet or exceed agreement requirements some of the time and in certain area[s]."

Beginning Compliance (BC): "Policy and procedure is written by the [C]ounty but not implemented; funding and hiring authority are approved by the County but positions are not filled; training materials prepared and approved by the [C]ounty but training not started."

Non Compliance (NC): "No action taken and immediate steps needed to maintain schedule or prevent further delay. A policy may exist, but the policy may need significant revision or modifications and rarely translates into practice."

³ Mr. Dixon provided the parties with a draft of the sixth monitor's report on February 17, 2014. Plaintiffs rely on the compliance ratings in the draft report to determine Hinds County's compliance with the Settlement Agreement to date. *See* Exhibit 1, Excerpt from Draft of Sixth Monitor's Report, February 17, 2014.

partial compliance in only four of those 12 provisions and has failed to move at all on the remaining eight provisions. The County's progress has been slow, to say the least, further evidenced by its movement from non-compliance to beginning compliance in one provision in the three months between the fourth and fifth reports. Currently, the County is in non-compliance with 34 provisions and beginning compliance with 25. *See* Exhibit 1, Excerpt from Draft of Sixth Monitor's Report. The County is not in substantial compliance with any of the 71 provisions. *Id.*

II. STATEMENT OF THE FACTS

Several provisions in the Settlement Agreement require action within 90 days; however, Hinds County did not take any take any steps toward implementing the Settlement Agreement in the months immediately after it went into effect. Thus, not surprisingly, the First Monitor's Report noted rampant constitutional violations in the "prison[-]like environment" which the monitor compared to an adult facility. First Monitor's Report at 6. Prior to his initial visit, Mr. Dixon reviewed numerous documents and, once at Henley-Young, interviewed the director, several key staff members, and youth. *See id.* at 4. Mr. Dixon also met with Hinds County officials and the youth court judge in an effort to assess the level of constitutional violations at Henley-Young. *Id.*

According to Mr. Dixon, the County's reliance on staff knowledgeable about law enforcement and adult corrections, rather than staff knowledgeable about "adolescent development delinquency theories and juvenile mental health services" has "contributed to a system that is unhealthy for juvenile rehabilitation." *Id.* at 7. In an effort to kick start implementation of the Settlement Agreement, Mr. Dixon provided the following specific measures that the County could take immediately to begin to change the culture at Henley-

Young: restoring light fixtures to working order, cleaning and painting, washing clothing, discarding torn and/or dingy clothing, developing a daily schedule, posting the rules and regulations on all housing units, creating/revising the grievance process, placing grievance boxes on the units, developing an appropriate due process/isolation system, providing hygiene kits, and revamping the visitation procedure to allow for contact visits. *Id.* at 8. Although the County implemented a few of Mr. Dixon's suggestions, including cleaning and painting the facility by the time Mr. Dixon submitted his second report, the majority have yet to be implemented, approximately 18 months later.

Moreover, as evidenced by the Fifth Monitor's report, the County appears to be backtracking in some of the areas where it had initially shown signs of improvement. *See* Fifth Monitor's Report at 7 (noting that "[t]he facility is dirty again and unkempt. The units have a strong odor of urine. There is also graffiti resurfacing in the rooms and on the units."). *See also* Third Monitor's Report at 40 (noting that the County purchased a new washer and dryer but youth were still provided clothing that is dirty, dingy, and torn).

In other areas it appears that the County has failed to follow-through with Mr. Dixon's recommendations. For example, although the County developed and posted a schedule of activities on the housing units, Mr. Dixon found that "it has not been put into operation" and "residents still do not spend enough time out of their cells" Second Monitor's Report at 24. *See also* Third Monitor's Report at 25, (noting that "[t]he facility has developed a daily schedule[;] however[,] because of inadequate staffing, the schedule is not followed."). Although the County reached beginning compliance with provision 11.5,⁴ it has failed to develop policies

⁴ Provision 11.5 provides that: Youth shall be provided with a clean, sanitary environment.

and procedures to follow-through with the recommendations outlined in the reports. *See* Third Monitor's Report at 43; Fourth Monitor's Report at 44; Fifth Monitor's Report at 56.

The County violated its own policy against the use of Tasers on December 25, 2012 after moving to beginning compliance for developing policies and procedures prohibiting the use of Tasers at Henley-Young. Third Monitor's Report at 33-34, 36. During the December 25 incident, instead of handling the situation without contacting law enforcement, the director called deputies from the Hinds County Sheriff's Department to provide assistance after a youth damaged County property and failed to comply with orders. *See* Third Monitor's Report at 6. Despite Henley-Young's policy against the use of Tasers, a Hinds County Deputy used a Taser on the youth shortly after arriving at Henley-Young. Third Monitor's Report at 34. The third report reflects the following: "there [was] no question that staff members should have appropriately engaged this youth through the use of crisis diffusion techniques[,] which were without question necessary. [T]here was no need for deputies from the Hinds County Sheriff's Department to enter the facility or to use a [T]aser to restrain [the] youth. There were not enough staff members available to handle the situation." *Id.* at 6. Mr. Dixon also noted that this incident is an example of what can happen when youth in need of access to structured mental health services do not receive those services while detained at Henley-Young. *See id.* at 48.

The monitoring reports outline numerous instances where youth have been subjected to dangerous, unconstitutional conditions. In particular, the Second Monitor's Report indicates that youth are left unsupervised for significant periods of time and are frequently locked in their cells because of insufficient staff. Second Monitor's Report at 18, 23. The report notes that several girls were left unsupervised for 30 to 40 minutes on September 27, 2012 because the staff member who was watching them was called to another housing unit. *Id.* at 23. *See also* Fourth

Monitor's Report at 25 (finding that situations when youth are left unsupervised are "extremely dangerous because youth who are angry, more impulsive and without supervision have the potential to harm themselves and other youth."). In another instance where a sufficient number of staff members were not working, two staff members were each charged with supervising 19 youth on two separate units. *Id.* at 18.

As further documented, *see* Fourth Monitor's Report at 16 (finding that youth who "exhibit an immediate need for behavioral modification therapy" do not receive such therapy, which resulted in a youth being "placed on a unit with no concern for his suicidal ideations" and without receiving one-on-one supervision); *Id.* at 37 (incident was not accurately reported where a female youth was bitten by a staff member during a restraint); Third Monitor's Report at 36 (staff members not only failed to use verbal de-escalation techniques prior to using physical force on a youth, but also "inappropriately physically managed him."); Fourth Monitor's Report at 50 (finding that "mental health counseling is inadequate to the needs of mentally ill youth in both frequency and content."); *Id.* ("My review of [the] records reveals no evidence of any counseling or use of any treatment plans or strategies."); Fifth Monitor's Report at 11 (noting that a staff member instructed a youth to clean up another youth's blood without being provided proper protective gear). *Id.* at 12-13 (youth are served food that is cold and out of line with nutritional guidelines); *Id.* at 27 ("no documentation of Henley-Young purchasing prescription medication for residents confined at the facility."); *Id.* at 58 (the medical filing system is inadequate, youths' files are not separated).

In addition to the training and technical assistance provided by Mr. Dixon, Carol Cramer-Brooks, the director of the National Center for Youth in Custody and chief operating officer of the National Partnership for Juvenile Services provided training and gave specific

recommendations to Henley-Young staff on November 13 and 14, 2013. *See* Exhibit 2, Summary of Training and Recommendation for Next Steps from C. Cramer-Brooks, December 6, 2013. The training was based on the National Partnership for Juvenile Services Detention Careworker Curriculum and Corrections Carework Curriculum. *Id.* at 2. Ms. Brooks noted the following issues that require immediate attention: (1) “inadequate staffing levels was often raised as a reason during the training for not being able to implement the concepts we were training them on and for having a negative impact on the safety of youth and staff in the facility;” (2) “[s]taff has not received physical restraint training in over three years;” (3) “[s]taff is being put on the pods to work with no training;” (4) staff did not know what to do when a youth threatened “suicide by tying his coat around his neck” and; (5) “[s]taff do not know policy and the contents/requirements of the consent decree have not been shared with them.” *Id.* at 3. As reflected above, the County has not corrected the violations noted by Ms. Brooks or Mr. Dixon.

In almost two years, the County has not reached substantial compliance with any of the provisions in the Settlement Agreement. The County’s woeful non-compliance has resulted in numerous children being subjected to unconstitutional conditions on a daily basis and provides Plaintiffs with absolutely no assurance that it will remedy the rampant constitutional violations at Henley-Young absent a finding of contempt and continued oversight by this Court.⁵

III. ARGUMENT

In a civil contempt proceeding in the Fifth Circuit, the movant must establish by clear and convincing evidence: “that (1) a court order was in effect, (2) the order required specified

⁵ In anticipation of the upcoming March 28, 2014 deadline, Plaintiffs contacted Hinds County at the beginning of January in the hope that Defendant would voluntarily extend the agreement due to its lack of compliance. Plaintiffs agreed to draft a joint motion for extension and a proposed order; however, Defendant later declined to enter into the voluntary agreement and requested that Plaintiffs revise/amend the order that “is narrowly tailored to the existing issues.” *See* Exhibit 3, Letter from P. Teeuwissen, Attorney for the Hinds County Board of Supervisors, to C. Cockrell (January 22, 2014). In light of Defendant’s non-compliance, Plaintiffs found Defendant’s request implausible and declined to submit a revised order. *See* Exhibit 4, Letter from C. Cockrell to P. Teeuwissen, Attorney for Hinds County Board of Supervisors (January 31, 2014).

conduct by the respondent, and (3) the respondent failed to comply with the court's order." *U.S. v. Jackson*, 359 F.3d 727, 731 (5th Cir. 2004) (citing *American Airlines, Inc. v. Allied Pilots Ass'n*, 228 F.3d 574, 581 (5th Cir. 2000)). A finding that a party violated a court's order willfully or in bad faith is generally required in the Fifth Circuit. *See KeyBank Nat. Ass'n. v. Perkins Rowe Assocs., Inc.*, CIV. 09-497-JJB-SCR, 2011 WL 2222192, at *2 (M.D. La. June 7, 2011) (citing *J.D. v. Nagin*, Civil Action No. 07-9755, 2009 WL 363456, at *5 (E.D. La. Feb. 11, 2009)). "A consent order, while founded on the agreement of the parties, is nevertheless a judicial act, enforceable by sanctions including a citation for contempt." *Whitfield v. Pennington*, 832 F.2d 909, 913 (5th Cir. 1987) (citing *U.S. v. Miami*, 664 F.2d 435, 439-40 (5th Cir. 1981) (en banc)). Moreover, "the moving party bears the burden of proving by 'clear and convincing' evidence that the alleged contemnor was aware of and violated a 'definite and specific order requiring him to perform or refrain from performing a particular act or acts.'" *Shafer v. Army and Air Force Exch. Serv.*, 376 F.3d 386, 396 (5th Cir. 2004) (quoting *Travelhost v. Blandford*, 68 F.3d 958, 961 (5th Cir. 1995)). Plaintiffs easily satisfy all of the requirements.

A. Elements of Civil Contempt

1. A Court Order is in Effect

We note at the outset that, per the Prison Litigation Reform Act (PLRA), the agreement reached by the parties, although called a settlement agreement, is a consent decree. The PLRA defines a private settlement agreement as "an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil proceeding that the agreement settled." 18 U.S.C.A. § 3626 (g)(6). In contrast, a consent decree is defined as "any relief entered by the court that is based in whole or in part upon the consent or acquiescence of the parties but does not include private settlement agreements." 18 U.S.C.A. § 3626 (g)(1). *See*

also *Davis v. Jackson Fire Dep't.*, 399 F.Supp.2d 753, 755 (S.D. Miss. Nov. 22, 2005) (citing *Buckhannon Bd. & Care Home, Inc. v. West Vir. Dep't of Health & Human Res.*, 532 U.S. 598, 604 (2001) (finding that “a consent decree has two characteristics that distinguish it from a private settlement: (1) judicial approval; and (2) judicial oversight.”); *U.S. v. Miami*, 664 F.2d 435, 439-40 (5th Cir. 1981) (noting that consent decrees differ from settlement agreements because consent decrees can be enforced through contempt proceedings).

After several months, and with assistance from the magistrate judge, the parties reached an agreement and agreed to the following stipulation: “the remedies contained in this document are necessary to correct an ongoing violation of a federal right, extend no further than necessary to correct the violation of a federal right, and that the prospective relief is narrowly drawn and is the least intrusive means to correct the violations.” *See* Settlement Agreement at 2. This Court approved the agreement upon finding it “fair, reasonable, and adequate” with “no obvious deficiencies.” Agreed Order Granting Approval of Settlement Agreement and Certifying Settlement Class, March 28, 2012, ECF No. 32.

There can be no question that the parties intended for the Court to retain jurisdiction for monitoring and enforcement purposes. *See* Settlement Agreement at 3, ECF No. 33; Judgment, March 28, 2012, ECF No. 34. It is well settled that “district courts have wide discretion to enforce decrees and to implement remedies for decree violations,” as consent decrees are judicial orders. *U.S. v. Alcoa, Inc.*, 533 F.3d 278, 286 (5th Cir. 2008). Thus, this Court has the authority to hold Hinds County in contempt for failing to implement the agreement. Because it is clear that this Court’s Agreed Order is currently in effect, Plaintiffs have satisfied the first element.

2. The Order Requires Specified Conduct from Hinds County

During the months of negotiation, the parties carefully considered each of the 71 provisions of the Agreement, resulting in a comprehensive agreement necessary to correct the following constitutional violations at Henley-Young related to: intake, staffing and overcrowding, cell confinement, structured programming, individualized treatment plans/program for post-disposition youth, disciplinary practices and procedures, use of restraints, use of force, meals and nutrition, clothing, hygiene and sanitation, medical care, mental health care, suicide prevention, and family support and interaction. *See* Settlement Agreement 3-18.

Defendant agreed to the provisions in the Settlement Agreement to resolve the litigation. The agreement requires Hinds County to take specific action to ensure that youth are not subjected to unconstitutional conditions while detained at Henley-Young. Moreover, the monitoring reports provide a detailed roadmap of how Hinds County can reach compliance with each provision of the Settlement Agreement.

3. Hinds County has failed to Comply with the Court's Order

As outlined above, all of the six monitoring reports clearly show that Hinds County has yet to reach substantial compliance with any of the 71 provisions. Even more concerning is Defendant's inability to maintain its efforts in some of the areas where it has shown signs of improvement. Despite Mr. Dixon's technical assistance, training, and recommendations, it cannot be disputed that the County remains in woeful non-compliance with this Court's order.

B. Requested Relief

The Settlement Agreement provides that it will terminate after two years unless "the Court makes written findings based on the record that prospective relief remains necessary after two years to correct a current and ongoing violation of federal right" Settlement Agreement

at 2. In a similar case involving unconstitutional conditions at a juvenile detention facility in Mississippi, the district court entered an amendment to a consent decree that included an extension of the termination date of the agreement. *See U.S. v. Mississippi*, 3:03-cv-01354-HTW-JCS, Order to Amend Consent Decree, ECF No. 158. The court stated the following in its order, “[t]his Agreement shall terminate when the State is in substantial compliance with each provision of this Agreement and has maintained such substantial compliance for a period of six (6) months. However, nothing herein shall be deemed to waive any right or protection possessed by the State, including but not limited to any rights or protections under the Prison Litigation Reform Act, 18 U.S.C. § 3626.” *Id.* at 4. The court also stated that the burden shall be on the defendant to show compliance. *Id.*

Plaintiffs respectfully request that Hinds County be held in contempt for its failure to comply with the Settlement Agreement. Like the court in *U.S. v. Mississippi*, we ask that this Court enter an order finding that the agreement shall terminate in two years or when Hinds County is in substantial compliance with each provision of the Settlement Agreement and has maintained substantial compliance for six months. Plaintiffs also ask this Court to make written findings that prospective relief remains necessary to correct the current and ongoing violations at Henley-Young identified in the monitoring reports. *See* 18 U.S.C.S. §3626(b)(3).

IV. ATTORNEYS’ FEES AND COSTS

Courts only award attorneys’ fees in actions involving prison conditions, pursuant to 42 U.S.C. 1983, in limited circumstances. Attorneys’ fees must be “directly and reasonably incurred in proving an actual violation of the plaintiff’s rights protected by a statute pursuant to which a fee may be awarded under section 1988 of this title” 42 U.S.C.A. §1997e

(d)(1)(A). The attorneys' fees must also be "directly and reasonably incurred in enforcing the relief ordered for the violation." *Id.* at (d)(1)(B)(ii).

The Fifth Circuit has found that "[i]n ordering the award of attorneys' fees . . . the court is merely seeking to insure that its original order is followed." *Alcoa*, 533 F.3d at 287 (citing *Cook v. Oshner Found. Hospital*, 559 F.2d 270 (5th Cir. 1977)). Moreover, it is imperative that courts have "the inherent authority to enforce their judicial orders and decrees in cases of civil contempt. Discretion, including the discretion to award attorneys' fees, must be left to a court in the enforcement of its decrees." *Id.* at 272.

This Court should not only exercise its authority to hold Hinds County in contempt for its failure to comply with the Settlement Agreement, it should also grant Plaintiffs' request for attorneys' fees. Hinds County has not taken the necessary steps to correct the serious constitutional violations that currently exist and have existed at Henley-Young for several years. Plaintiffs have incurred expenses in investigating, preparing, and presenting their contempt motion and asked to be reimbursed for these expenses.

V. CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that this Court grant Plaintiffs' motion for contempt and extend the termination date of the Settlement Agreement.

Respectfully submitted, this the 27th day of February, 2014.

/s/ Corrie W. Cockrell
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Counsel for Plaintiffs.

CERTIFICATE OF SERVICE

I, Corrie W. Cockrell, hereby certify that a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent by electronic mail to all parties by the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

SO CERTIFIED, this 27th day of February, 2014.

/s/ Corrie W. Cockrell
CORRIE W. COCKRELL, MS Bar No. 102376

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Case No. 3:11-CV-327 DPJ-FKB

PLAINTIFFS’ MOTION FOR CONTEMPT

Plaintiffs move this Honorable Court to issue an order finding Hinds County in contempt for failing to comply with the Settlement Agreement reached on March 28, 2012. In June 2011, Plaintiffs filed a class action lawsuit against Hinds County to remedy abusive and unconstitutional conditions at the Henley-Young Juvenile Justice Center (“Henley-Young”). Amended Complaint, June 6, 2011, ECF No. 5. The parties entered into a settlement agreement and this Court retained jurisdiction for monitoring and enforcement purposes. Settlement Agreement, March 28, 2012, ECF No. 33; Judgment, March 28, 2012, ECF No. 34; Agreed Order Granting Approval of Settlement Agreement and Certifying Settlement Class, March 28, 2012, ECF No. 32. Despite training, technical assistance, and recommendations from the court-appointed monitor, Defendant is not in substantial compliance in any of the 71 provisions of the agreement, almost two years after the agreement has been in effect.

Plaintiffs satisfy the following three requirements enumerated by the Fifth Circuit for a finding of civil contempt: “that (1) a court order was in effect, (2) the order required specified conduct by the respondent, and (3) the respondent failed to comply with the court’s order.” *U.S. v. Jackson*, 359 F.2d 727, 731 (5th Cir. 2004) (citing *American Airlines, Inc. v. Allied Pilots Ass’n.*, 228 F.3d 574, 581 (5th Cir. 2000)). In support of this Motion, Plaintiffs submit the exhibits listed below and an accompanying Memorandum of Law:

Exhibit 1, Excerpt from Draft of Sixth Monitor’s Report, February 17, 2014.

Exhibit 2, Summary of Training and Recommendation for Next Steps from C. Cramer-Brooks, December 6, 2013.

Exhibit 3, Letter from P. Teeuwissen, Attorney for the Hinds County Board of Supervisors, to C. Cockrell (January 22, 2014).

Exhibit 4, Letter from C. Cockrell to P. Teeuwissen, Attorney for Hinds County Board of Supervisors (January 31, 2014).

For the reasons set forth in the accompanying Memorandum of Law, Plaintiffs respectfully request that this Court enter an order holding Defendant in contempt for failing to comply with the Settlement Agreement.

Respectfully submitted, this the 27th day of February, 2014.

/s/ Corrie W. Cockrell

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CERTIFICATE OF SERVICE

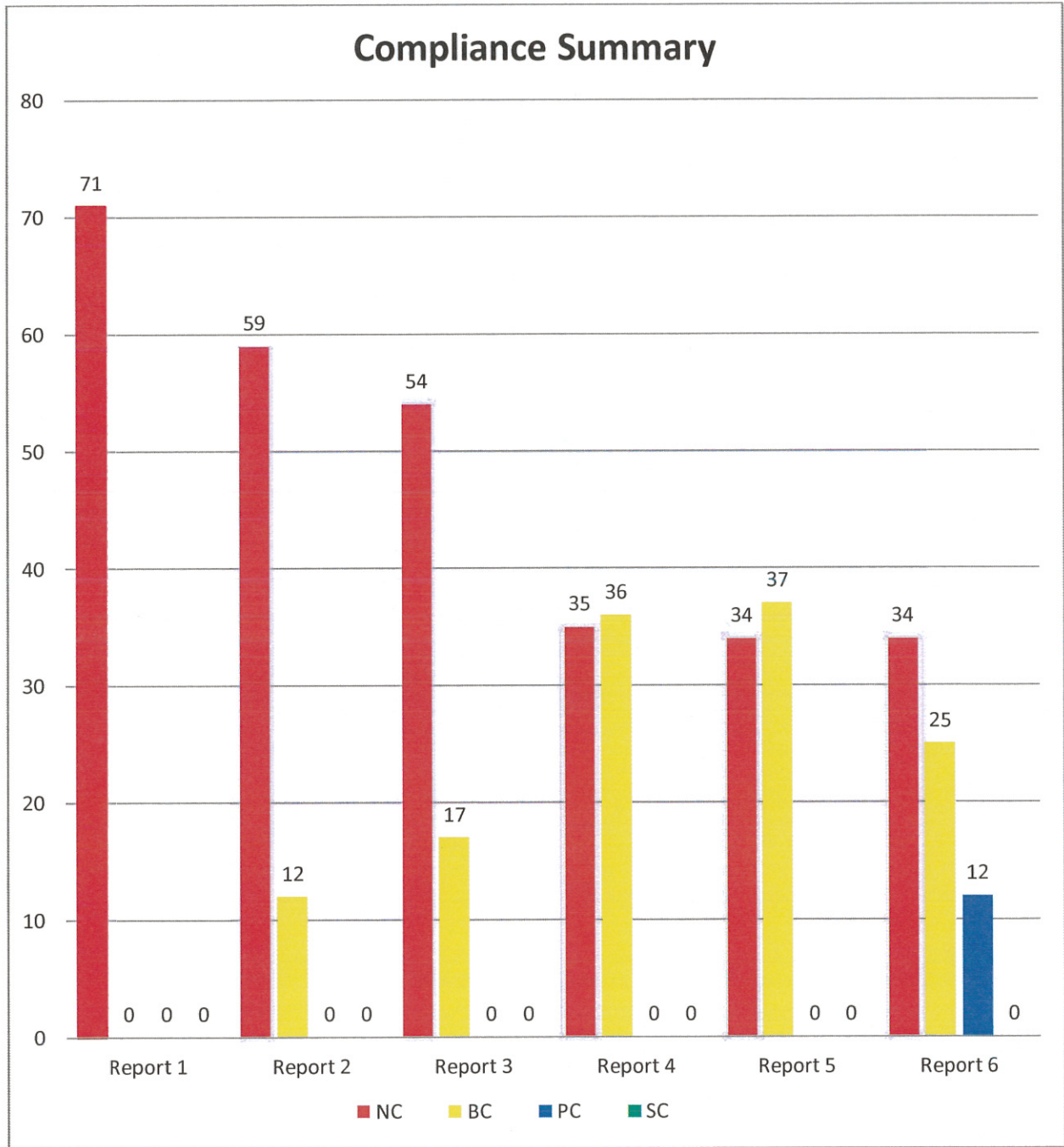
I, Corrie W. Cockrell, hereby certify that a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent by electronic mail to all parties by the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF System.

SO CERTIFIED, this 27th day of February, 2014.

/s/ Corrie W. Cockrell
CORRIE W. COCKRELL, MS Bar No. 102376

EXHIBIT 1
Excerpt from Draft of Sixth Monitor's Report
February 17, 2014

The graph has been included to show the progress made thus far on the 71 provisions:



Compliance Code Measurements

Substantial Compliance (SC): Practices follow the county-approved policies, training materials or other documents; practices follow policy with rare exception and exceptions lead to corrective action; trained staff fill all positions and vacancies are filled within 3 months; the County has completed work in an acceptable manner; policies, procedures and practice and training are operational and quality-assurance audited and audit exceptions lead to corrective action; outcomes meet or exceed agreement requirements.

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Beginning Compliance (BC): Policy and procedure is written by the county but has not been implemented; funding and hiring authority are approved by the County but positions are not filled; training materials prepared and approved by the county but training has not started.

Non-Compliance (NC): No action taken and immediate steps needed to maintain schedule or prevent further delay. A policy may exist, but the policy may need significant revision or modifications and rarely translates into practice.

Provision	Intake	4th Report	5th Report	6th Report	
1.(1)	All Residents Admitted to Henley Young	NC	NC	NC	
1.(2)	MAYSI-2 Mental Health Screening	NC	NC	NC	
1.(3)	Prescription Medications	NC	NC	NC	
1.(4)	Meal Compliance	NC	NC	NC	
1.(5)	Telephone Usage	BC	BC	BC	
1.(6)	Strip Search Policy	BC	BC	BC	
Provision	Staffing and Overcrowding				
2.(1)	Direct Care Staff Ratio	NC	NC	NC	
2.(2)	Maximum Capacity Adjustment	BC	BC	PC	
2.(3)	One-Person Cell	BC	BC	PC	
Provision	Cell Confinement				
3.(1)	Structured, Rehabilitative & Educational Programming	NC	NC	NC	
3.(2)	Appropriate Access to Living Unit	NC	NC	NC	
3.(3)	Dangerous Residents	NC	NC	NC	
3.(4)	Isolation	NC	NC	NC	
3.(5)	Direct Care Staff on Units	BC	BC	BC	

Provision	Structured Programming	4th Report	5th Report	6th Report	
4	Educational, Rehabilitative, and/or Recreational Programs	NC	NC	NC	
Provision	Individualized Treatment Plans/Treatment Program for Post-Disposition Residents				
5.(1)	Residents Access to Adequate Rehabilitative Services	NC	NC	NC	
5.(2)	Health and/or Substance Abuse Treatment	NC	NC	NC	
5.(3)	Treatment Plans	NC	NC	NC	
5.(4)	Review of Individual Treatment Plans	NC	NC	NC	
5.(5)	Evening and Weekend Programs and Activities	NC	NC	NC	
5.(6)	Quality Assurance Program	NC	NC	BC	
Provision	Disciplinary Practices and Procedures	NC	NC	NC	
6.(1)	Implement a Discipline Policy and Practice	NC	NC	NC	
6.(2)	Policy for Residents Violations				
Provision	Use of Restraints				
7.(1)	Mechanical Restraints	BC	BC	BC	
7.(2)	Mechanical Restraints – Transportation	BC	BC	BC	
7.(3)	Misuse of Mechanical Restraints	BC	BC	BC	
7.(4)	Mental Health – Use of Mechanical Restraints	NC	NC	NC	
7.(5)	No Restraint Chairs, Chemical Restraints and/or Tasers	BC	BC	PC	
7.(6)	No Hogtying in Facility	BC	BC	PC	
7.(7)	Mechanical Restraints – One-On-One Supervision	BC	BC	BC	
7.(8)	Mechanical Restraints – Notice to Medical Professional	BC	BC	BC	
7.(9)	No Electronic Restraints	BC	BC	PC	
7.(10)	No Firearms in Facility	BC	BC	PC	
Provision	Use of Force				
8.(1)	No Misuse of Use of Force	NC	NC	NC	
8.(2)	Notice to Medical Professional After Use of Force	NC	NC	NC	
Provision	Meals and Nutrition				
9.(1)	All Meals and Snacks Must Be Nutritional	BC	BC	BC	
9.(2)	Comply with Nutrition Guidelines	BC	BC	BC	
9.(3)	Provide Drinking Water Throughout the Day	BC	BC	BC	
Provision	Clothing				
10	Provide Basic Clothing Items	BC	BC	BC	

Provision	Hygiene and Sanitation	4th Report	5th Report	6th Report	
11.(1)	Provide Appropriate Hygiene Products	BC	BC	BC	
11.(2)	Provide Sleeping Mats and Blankets	BC	BC	BC	
11.(3)	No Deprivation of Mats and Blankets	BC	BC	PC	
11.(4)	Sufficient Sanitary Mats and Blankets	BC	BC	PC	
11.(5)	Clean and Sanitary Environment	BC	BC	BC	
11.(6)	Fire Safety, Weather Emergencies, Sanitation Practices, Food Safety, and Provide Safe Environment	NC	NC	NC	
11.(7)	Clean Drinking Glasses and Eating Utensils	BC	BC	PC	
Provision	Medical Care				
12.(1)	Provide Residents With Adequate Medical Care	NC	NC	NC	
12.(2)	Provide Medical Professional When Needed	NC	NC	NC	
12.(3)	Implement a Sick Call Policy to Ensure 24 Hour Services	NC	NC	NC	
12.(4)	Prescription Medications Only Dispensed by Medical Staff	NC	NC	NC	
12.(5)	Provide Medical and Mental Health Services	NC	NC	NC	
12.(6)	Proper Monitoring Residents Who Require Individualized Attention	NC	NC	NC	
Provision	Mental Health Care				
13.(1)	Provide Adequate Mental Health Care	NC	NC	NC	
13.(2)	Residents and Psychotropic Medications	NC	NC	NC	
13.(3)	Within 72 Hours of Admittance Complete an Individual Mental Health Treatment Plan	NC	NC	NC	
13.(4)	Implement Policies and Procedures for Referrals	NC	NC	NC	
13.(5)	Sufficient Psychiatric Services	NC	NC	NC	
13.(6)	Psychiatrist and/or Counselors to Record Review to Ensure Proper Care	NC	NC	NC	
Provision	Suicide Prevention				
14.(1)	Multi-tiered Suicide Prevention Policy	BC	BC	BC	
14.(2)	Evaluate Highest Level of Suicide Watch Every 12 Hours by Medical Professional	BC	BC	BC	
14.(3)	Closely Monitor Suicide Watch Residents During All Activities	BC	BC	BC	
14.(4)	Court Shall be Notified Within 24 Hours of Any Residents on Suicide Watch	BC	BC	BC	
Provision	Family Support and Interaction				
15.(1)	Visitation Shall Not Be Restricted or Withheld	BC	BC	PC	
15.(2)	Provide Accommodations for Contact Visits	BC	BC	PC	

Provision	Family Support and Interaction (cont.)	4th Report	5th Report	6th Report	
15.(3)	Visitation Shall be Regularly Scheduled	BC	BC	PC	
15.(4)	Phone Calls Shall be Allowed Based on Policy	BC	BC	BC	
Provision	Miscellaneous Provisions				
16.(1)	Provide Equal Access To All Services	BC	BC	BC	
16.(2)	Provide the Opportunity To Participate In Large Muscle Exercise Every Day	NC	NC	NC	
16.(3)	Prohibit the Use of Profanity in the Presence of Residents	BC	BC	BC	
16.(4)	Provide Adequate Grievance Policy	BC	BC	BC	
16.(5)	Provide Residents of All Ages With the Opportunity to See Their Attorney and/or Residents Court Counselor	BC	BC	BC	

DRAFT

EXHIBIT 2
Summary of Training and Recommendation for Next
Steps form C. Cramer-Brooks
December 6, 2013



1424 Gull Road
Kalamazoo, MI 49048
269.383.8644
npjshelp@gmail.com
<http://ncyc.nps.org>

To: Leonard Dixon, Monitor
Hinds County, Mississippi

Brenda Frelix, Director
Henley-Young Juvenile Justice Center

From: Carol Cramer Brooks, Director
National Center for Youth in Custody &
CEO, National Partnership for Juvenile Services

Date: December 6, 2013

RE: Summary of Training Provided & Recommendations for Next Steps

The following training activities were provided for staff of the Henley-Young Juvenile Justice Center as part of a training request submitted to the National Training Center for Youth in Custody (NCYC):

1. Foundation Skills for Trainers, November 13 and 14, 2013
The modules used in this training are part of the Foundation Skills for Trainers Course from the National Institute of Corrections curriculum. The training modules included:
 - o Introductions, Expectations, and Ground Rules
 - o Ice breakers and Energizers
 - o Training Cycle and Trainer Liability
 - o Context of the Learner-Adult Learning Theory, Learning Styles
 - o Context of the Lesson-Learning Cycle, Instructional Theory Into Practice (ITIP), Instructional Strategies
 - o Context of Trainer-Platform Skills, Dealing with Nervousness
 - o Context of the Participant Group-Stages of Group Development, Handling the Disruptive Participant

Each participant received two homework assignments for completion in the detention careworker training the following week: 1.) Icebreaker to facilitate with a co-trainer; 2.) Module lesson plan to read in advance, and observe from a trainer perspective during that particular module in the training.



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Six people completed the entire training (Rigoberto Allbarran, Ferniece Galloway, Carolyn Holmes, Eddie Burnside, Betty Stewart, and Mae Henry). One participant, Dale Knight, completed part of the training.

2. Detention Careworker Training, November 18-22, 2013

The modules used in this training are part of the National Partnership for Juvenile Services Detention Careworker Curriculum and Corrections Careworker Curriculum. The specific modules were identified by Henley-Young Juvenile Justice Center administration as priority training needs and included:

- o Adolescent Development, including Adolescent Brain Research
- o Behavior Management
- o Managing Mentally Ill Youth
- o Suicide Prevention
- o Effective Communication
- o Conflict Resolution Skills
- o PREA
- o Juvenile Rights
- o Safety, Security and Principles of Supervision

Nine people completed the entire training (Rigoberto Allbarran, Ferniece Galloway, Carolyn Holmes, Eric Dorsey, Eddie Burnside, Betty Stewart, Mae Henry, Dale Knight and Debra Byrd). Two people, Namibia Brown (missed Adolescent Development) and MacArthur Russell (missed PREA, Juvenile Rights and Safety, Security and Principles of Supervision) completed four days of training. Teneka Moore and Brenda Frelix attended the training intermittently.

Issues raised during training requiring immediate attention:

1. Staff shortage - When originally planned, the Detention Careworker Training was to have thirty people in the training. The week prior to the training, at the Training for Trainers session, this estimated number was reduced to twenty. There were actually eleven people in the training, including the seven participants from the T4T. Of the eleven, one staff worked multiple midnight shifts and then came to training. Other staff attended training from 8-4:30 and then worked until 11 pm. One of the participants did this four consecutive days and was not able to attend the last day of training due to exhaustion.



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Due to the staffing shortage, administration never would have been able to fill a training class. More importantly, inadequate staffing levels was often raised as a reason during the training for not being able to implement the concepts we were training them on and for having a negative impact on the safety of youth and staff in the facility.

2. Staff has not received physical restraint training in over three years. When asked, there has not been a decision made on what PRT methodology or program to use. Administration was deciding between Crisis Prevention Intervention (CPI) for which they had access to a local trainer, and Handle With Care (HWC).
3. Staff is being put on the pods to work with no training. They are relying on pairing new staff with a "good" staff person who will share the knowledge and skills the way they want it shared. Critical issues arise - such as happened during the training - a youth threatening suicide by tying his coat around his neck and the staff not knowing what to do. When the new staff did what he thought to be appropriate, report the incident to a veteran staff, the staff he went to for help gave him bad advice.
4. Staff does not know policy and the contents/requirements of the consent decree have not been shared with them. They have not been given the training, tools, or information needed to implement policy, i.e. behavior management policy and effect the changes required under the consent decree.

Recommendations:

1. Continue to develop and train the leadership team so that all members of the team understand the role, mission, and function of juvenile detention and can present a united voice regarding the direction of the reform movement at Henley-Young. There appears to be role confusion amongst the members of the team, i.e. adult facility, long-term corrections facility, treatment, detention, etc. Participation in t
2. his development and training should include Ms. Frelix, Mr. Knight, Mr. Dorsey, and Mr. Burnside.
3. The Training for Trainers Strategy is not going to be effective at this time or as previously laid out for Henley-Young. The staff who participated in the T4T will need to do extensive work to understand the concepts and the content of the curriculum in order to be able to teach others. Of the seven



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people that participated in the training, there are three (Mae, Eddie and Ferniece) that would be the first to be able to co-train with an experienced trainer, but only after they have had some coaching and practice time to study and absorb the curriculum.

One of the participants in the T4T class, Rigo, is a new hire from the adult correctional system and therefore is not appropriate for use as a trainer until he is able to become more familiar with juvenile detention practice and can clearly demonstrate and articulate the concepts. Another participant, Dale, is a veteran staff, also from the adult system, and although he has spent time as the administrator of the Henley-Young Juvenile Justice facility, struggles with applying juvenile justice concepts. He also is not appropriate for use as a trainer until he demonstrates and articulates the concepts. I do not feel that I have enough knowledge about the content or the trainer expertise of the other members of the training team (Betty and Carol) to feel confident in putting them in front of a training class without additional training

Recommendation: Although building the internal capacity for Henley-Young to provide training for their staff is ultimately the goal, this is an end product, and there are many steps that need to be taken before this can be achieved. For assistance in achieving this goal, you should consider submitting a TA request to NCYC for a trainer coach to continue to work with the trainer team to get them ready to present material.

Until the training team is ready to present the training solo, a contract with trainers to provide the training for the staff is needed.

4. The administrative team needs to be fully staffed with quality individuals that buy into and promote the vision and mandate of juvenile justice. The administrative team also has to be one voice in promoting the culture change at Henley-Young. It's not just about adding bodies. In fact, there will no doubt be a pruning process that will have to take place as people realize the new culture and direction may not be for them. Having adequate numbers of quality staff will enable administration to re-position staff as needed to implement the programs that youth need.



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Once the administrative team is fully staffed and reflective of the values, vision, and mission of the facility, they need to address the vacancies in the direct care staff positions.

Recommendation: The monitor or a consultant should work with the Henley-Young administrative team to develop a hiring protocol, i.e. characteristics of staff that fit the values, vision, and mission of the Henley-Young Juvenile Justice Center. All applicants should be measured against this protocol.

Work with the monitor/consultant to develop a strategy for creating a pool of part time workers who can relieve the stress on the current staff who are currently expected to work overtime for compensatory time that they can never take due to the staff shortage.

5. Certain training has to be done right away, even if it requires that Henley-Young bring in contracted trainers because your training team is not ready to go yet. These include Suicide Prevention, De-escalation and Physical Restraint, PREA, and CPR and First Aid (if staff are not current in these certifications).

Recommendation: Work with National Center for Youth in Custody and the National Partnership for Juvenile Services to identify appropriate trainers for the subject areas and schedule the trainings for all staff as soon as possible.

6. Once the critical trainings have been completed, create a training plan that includes requirements for:
 - a. Pre-service training - determine the content and how many hours of training new staff should receive before they can work on a pod
 - b. In-service hours - determine the content and number of annual training hours staff are required to receive, including any annual recertification requirements
 - c. Professional development hours - identify appropriate on-line courses, conferences, workshops, membership in professional organizations for staff at all levels of the organization
 - d. On-the-job-training hours - identify appropriate post-training follow-up activities for all training application

EXHIBIT 3

Letter from P. Teeuwissen, Attorney for Hinds County
Board of Supervisors, to C. Cockrell
(January 22, 2014)

ROBERT GRAHAM
District 1

DARREL MCQUARTER
District 2
President

PEGGY ROBSON CALHOUN
District 3
Vice President



TONY M. ORRER
District 4

KENNETH STOKES
District 5

OFFICE OF THE
BOARD ATTORNEY

January 22, 2014

Corrie W. Cockrell, Esq.
Southern Poverty Law Center
111 East Capitol Street, Suite 280
Jackson, Mississippi 39201

**RE: J.H., by and through his next friend, Terina Gray; on behalf of himself and all persons similarly situated; T.A., by and through his next friend, Alice Austin, on behalf of himself and all persons similarly situated; and Disability Rights Mississippi vs. Hinds County, Mississippi
U.S. D.C. Cause Number 3:11-cv-327 DPJ-FKB**

Dear Ms. Cockrell:

The Board of Supervisors has duly considered the request by the Southern Poverty Law Center to have "the County [to] agree to a voluntary extension of the Agreement" in the above-referenced matter. At this time, the Board respectfully declines. In the alternative, the Board requests that the Southern Poverty Law Center submit a revised/amended order which is narrowly tailored to the existing issues. It is the Board's hope that a narrowly tailored extension will further assist the progress already made while avoiding litigation.

Thank you for your continued attention in this matter.

Sincerely,

OFFICE OF THE BOARD ATTORNEY

Pieter Teuwissen, Esq.

/adw

cc: Carmen Davis, County Administrator
Lisa Ross, Esq., Special Legal Counsel
Anthony R. Simon, Esq., Special Legal Counsel

EXHIBIT 4
Letter from C. Cockrell to P. Teeuwissen,
Attorney for Hinds County Board of Supervisors
(January 31, 2014)



Fighting Hate
Teaching Tolerance
Seeking Justice

Southern Poverty Law Center
111 East Capitol Street, Suite 200
Jackson, MS 39201
T 601.948.8882 F 601.948.8885
www.splcenter.org

January 31, 2014

VIA HAND DELIVERY AND ELECTRONIC MAIL

Pieter Teeuwissen
Board Attorney
Hinds County Board of Supervisors
Post Office Box 686
Jackson, MS 39205-0686
pteeuwissen@co.hinds.ms.us

Re: Follow-up to Hinds County's Response to Joint Motion and Proposed Order for Extension of Settlement Agreement reached in the Matter of J.H. v. Hinds County, 3:11-cv-327

Dear Mr. Teeuwissen:

The Southern Poverty Law Center (SPLC) is in receipt of your correspondence in response to our joint motion and proposed order for extension of the settlement agreement in the matter of *J.H. v. Hinds County*. After meeting with Lisa Ross on January 15, 2014, SPLC was under the impression that Hinds County is aware of its woeful non-compliance with the settlement agreement and of the necessity of an extension. As such, SPLC agreed to draft the joint motion and proposed order for the County's review.

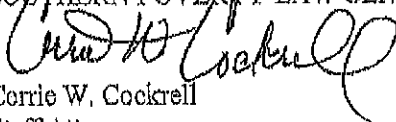
SPLC regrets that Hinds County is unwilling to agree to a voluntary extension of the settlement agreement. We decline to submit a revised order; as such a request is implausible because Hinds County is not in substantial compliance with any of the 71 provisions set forth in the agreement. Accordingly, it is our position that an extension of the agreement remains necessary to correct current and ongoing violations of federal law. SPLC will request that, pursuant to 18 U.S.C.A. § 3626 (3)(b)(3), the Court issue written findings that relief remains necessary. If the County wishes to send us a proposed order, we will consider it; however, if we do not have the proposed order by *Friday, February 7, 2014*, we will move forward with seeking relief from the Court.

Also, please be advised that we will request attorney's fees associated with our efforts to obtain an extension of the agreement. *See* 42 U.S.C.A. § 1997e (d)(1).

For your convenience, I have enclosed a copy of Lisa's e-mail and my response regarding this matter. I am available to discuss further and can be reached at 601-948-8882 ext. 26 or corrie.cockrell@splcenter.org.

Thank you,

SOUTHERN POVERTY LAW CENTER



Corrie W. Cockrell
Staff Attorney

Enclosure

cc: Lisa Ross, Esq. (via e-mail)
Anthony Simon, Esq. (via e-mail)
Carmen Davis, County Administrator (via e-mail)

Corrie Cockrell

From: Lisa Ross <lross@lmrossatlaw.com>
Sent: Monday, January 27, 2014 11:00 AM
To: Corrie Cockrell
Subject: Re: draft order & motion extending HY agreement

Corrie,

Just wanted to provide you with an update on the proposed order and motion extending HY agreement. When you, Jodi and I discussed this matter last week, Jodi indicated that the extension might be one year.

At any rate, I am getting a lot of put back on this extension. The board at this juncture will not agree to an 18 month extension. I suggest that we agree to extend the agreement for six months with the understanding that we will probably have to seek another extension if our work is not done in six months. Why don't you and Jodi let me know what y'all thing about that.

Also, in addition to a shorter extension time, my folks want the terms of the consent decree modified. While we are not at substantial compliance, we are way ahead of where we were when we entered the consent agreement.

The proposed agreement says that Dixon will five the facility at least five more times. Any agreement to extend the consent agreement should decrease the number of times that Dixon has to travel to the center. Of course, we can carve something out that will allow him to visit once every six months unless the court monitor determines that exigent circumstances exist that will require him to visit more than once in six months.

Also, will you and Jodi propose some ways to narrow the consent decree based on the progress that the county has made. Let me know your position on this matter. I am available to discuss this matter further. Anthony Simon, also, is available to meet with us on Wednesday if you and Jodi can meet.

I would like us to work this matter out if we can. Please advise.

From: Corrie Cockrell <corrie.cockrell@spicenter.org>
Date: Wednesday, January 22, 2014 9:13 AM
To: Lisa Ross <lross@lmrossatlaw.com>
Subject: RE: draft order & motion extending HY agreement

Yes, that is fine. Thanks.

From: Lisa Ross [mailto:lross@lmrossatlaw.com]
Sent: Wednesday, January 22, 2014 9:12 AM
To: Corrie Cockrell
Subject: Re: draft order & motion extending HY agreement

Corrie,

I have to get with Carmen and Peter on this. Can I have until Monday? This will probably have to be presented to the board since the county will be expected to pay for the independent monitor.

From: Corrie Cockrell <corrie.cockrell@spicenter.org>
Date: Tuesday, January 21, 2014 9:19 AM
To: Lisa Ross <lross@lmrossatlaw.com>
Subject: draft order & motion extending HY agreement

Lisa,
Please see the attached documents and let me know if have any suggested changes.

Thanks,

Corrie W. Cockrell
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January 31, 2014

BY UNITED STATES AND ELECTRONIC MAIL

Lisa M. Ross, Esq.
514 E. Woodrow Wilson Avenue
Jackson, Mississippi 39283
lross@lmrossatlaw.com

*Re: Follow-up to Hinds County's Response to Joint Motion and Request for
Modification of Settlement Agreement and Proposed Order*

Dear Lisa:

This letter is in response to your electronic communication sent on Monday, January 27, 2014. The Southern Poverty Law Center (SPLC) will not agree to a six-month extension of the settlement agreement reached in the matter of *J.H. v. Hinds County*. Based on the level of compliance to date, it is unlikely that the County will reach substantial compliance in six months. SPLC is willing to agree to a one year extension, which is a more realistic timeline for the County to reach compliance. However, obviously, if the County has reached substantial compliance in six months, the County can move the Court for relief.

As for your recommendation that Mr. Leonard Dixon decrease his visits to every six months, SPLC will not agree to such a limitation. SPLC is willing to consider a reduction that Mr. Dixon determines necessary based on benchmarks that the County may reach in the future.

Finally, SPLC will not agree to a modification of the settlement agreement. To date, the County is not in compliance with any of the provisions set forth in the settlement agreement; thus, any discussion about modifying the agreement is premature.

I can be reached at 601-948-8882 ext. 26 or by e-mail at corrie.cockrell@splcenter.org, should you have any questions or concerns. Also, we are available next Wednesday through Friday to meet, should you wish to discuss further.

Thank you,

SOUTHERN POVERTY LAW CENTER


Carrie W. Cockrell
Staff Attorney

cc: Lisa Ross, Esq. (via e-mail)
Anthony Simon (via e-mail)
Carmen Davis, County Administrator (via e-mail)