

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

Ninth Compliance Report – Equal Protection

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## INTRODUCTION

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

The Parties selected Dr. Michael J. Leiber as the Equal Protection Monitor of the Agreement. The Agreement requires the Monitor to assess the level of compliance by the juvenile court every six months and to produce reports. The first Monitor's report was submitted on June 12, 2013; the second Equal Protection Monitor Report was submitted on January 16, 2014, the third was submitted on June 17, 2014, the fourth on January 12, 2015 and the fifth Equal Protection Monitor Report was submitted July 3, 2015. The sixth report was submitted on December 15, 2015. The seventh report was submitted on June 17, 2016. The Eighth Equal Protection Report was November 22, 2016. This is the ninth Equal Protection Monitor's Report on movement toward compliance on the items stipulated in the Agreement as pertaining to Equal Protection. The time-frame assessed is November 23, 2016 to April 26, 2017.

The evidentiary basis for my opinions are based on document reviews (policies, data, compliance report by the Settlement Agreement Coordinator, reports provided by the Pam Skelton (Juvenile Court) in-conjunction with the Equal Protection Strategic Planning Committee, the Shelby County Disproportionate Minority Contact Coordinator or DMC Coordinator, meeting notes, emails, etc.), an on-site visit (April 2, 2017 through April 4, 2017), interviews and phone-calls with Staff, the Shelby County DMC Coordinator, the Settlement Agreement Coordinator, and conference calls with Staff and the Department of Justice (DOJ). Each of the eight previous Equal Protection Monitor reports have also been relied upon to arrive at conclusions concerning compliance with the MoU.

Although the above was relied upon, an on-site visit that took place on July 21 and July 22, 2016, yielded discussion and specific strategies for the Court to follow. This on-site visit was a two day working meeting and what was produced from those interactions framed my on-site visit in late September of 2016 and in April of 2017 and was also relied upon for the Eighth Equal Protection Report and the current – Ninth Equal Protection Monitor Report- to assess the status of the juvenile court in terms of complying with the MoU.

In the determination of racial disparity in the administration of juvenile justice, evaluations were conducted of the level of the disproportionate minority contact (DMC) at various stages or points of contact within the juvenile court (referral to court, cases diverted, secure detention, petition, findings of delinquency, probation, placement in secure confinement, waiver to adult court). In addition, a DOJ study was conducted of decision-making at each stage of juvenile justice

proceedings. Results from that examination of the extent of DMC and the DOJ study that examined the possible causes of DMC showed the following: minority youth overrepresentation at almost every stage in the proceedings and evidence of discriminatory treatment of Black youth (see Appendix 1).

The Agreement indicates provisions (or things to do) and certain time-lines to reduce the presence of Black youth in the juvenile justice process and to ensure greater fairness for all youth. In general, the Agreement focuses on procedural changes as pertains to equal protection (e.g., objective decision making tools), cultural/gender sensitivity training, management of and evaluation of data to observe patterns at points of contact (referral, probation, detention, etc.) and inform possible changes to reduce DMC and the development and use of strategies to divert youth away from court referral and secure detention and transfer to adult court. There is also a requirement to develop linkages with the community for the purpose of informing the general public of the progress toward reform and to improve and further build relations between the community and Juvenile Court of Memphis and Shelby County (Juvenile Court).

## THE CONTINUED INFLUENCE OF RACE IN JUVENILE COURT PROCEEDINGS

As recently as the summer of 2016, the Juvenile Court began to show more of a commitment and activity to address DMC. This ownership and efforts on the part of the Juvenile Court have yet to yield significant changes in DMC and greater equity in the handling of youth and in particular, Black youth. Using data from 2009 (not shown) through 2016, reductions in raw numbers for court referrals, detention, and transfer to adult court have occurred. Youth, to some degree, are also being diverted away from harsher treatment. These results are positive and appear to suggest fewer youth are coming to the Juvenile Court and penetrating into the system. Still, the relative rates or gap in the racial disparity at each stage has not closed but rather has either stayed the same or has increased over time. The most troubling and problematic stages are: referral, secure detention and petition or the non-judicial outcome. More specific (see Figure 1):

### *Court Referrals*

- The relative rate index involving referrals to court for 2016 remains high at 4.45. In other words, almost 4 and a half Black youth per 100 youth are referred relative to 1 White youth per 100 youth. While the number of referrals for both Whites and Blacks are down, which is good, the relative overrepresentation of Black youth to White youth in court referrals continues to be an issue that has shown relatively no change over the last 8 years.

### *Secure Detention*

- The relative rate index values pertaining to secure detention initially showed a decline from 2.1 in 2009 to 1.32 in 2012. But starting in 2012 through 2016, an increase in disparities related to secure detention is evident at 1.89. Although the overall number of youth involving secure detention has reduced significantly over the years for both White and Black youth, almost 2 Blacks are still being detained to every 1 White.

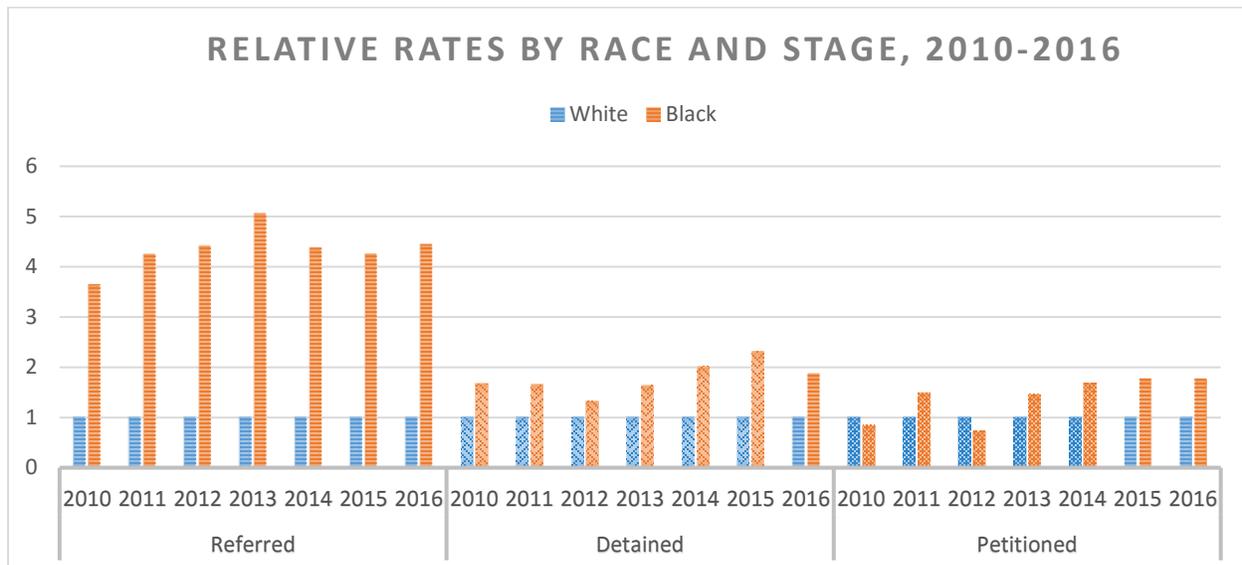
### Non-Judicial Outcomes

- Black youth continue to be underrepresented for cases diverted. In 2009, the relative rate index was .90, in 2016, it is .95. The relative rate involving a petition or the non-judicial outcome in 2016 is 1.78.

### Notice/Transfer to Adult Court

- While the number of youth given a notice of transfer and actually waived has declined, it is important to point out the number of youth recommended for a waiver or given notice is still high at 256 in 2013, 190 in 2014, 153 for 2015, and 128 in 2016. Of the 128 youth, 10 were White and 3 Whites were waived to adult court compared to 42 Blacks.

**Figure 1.** Relative Rates by Race and Stage, 2010-2016



Note: How to read relative rate index (RRI), for example in 2010, referred to juvenile court 3.65 Blacks to 1 White. The stage of Petition is treated the same as non-judicial.

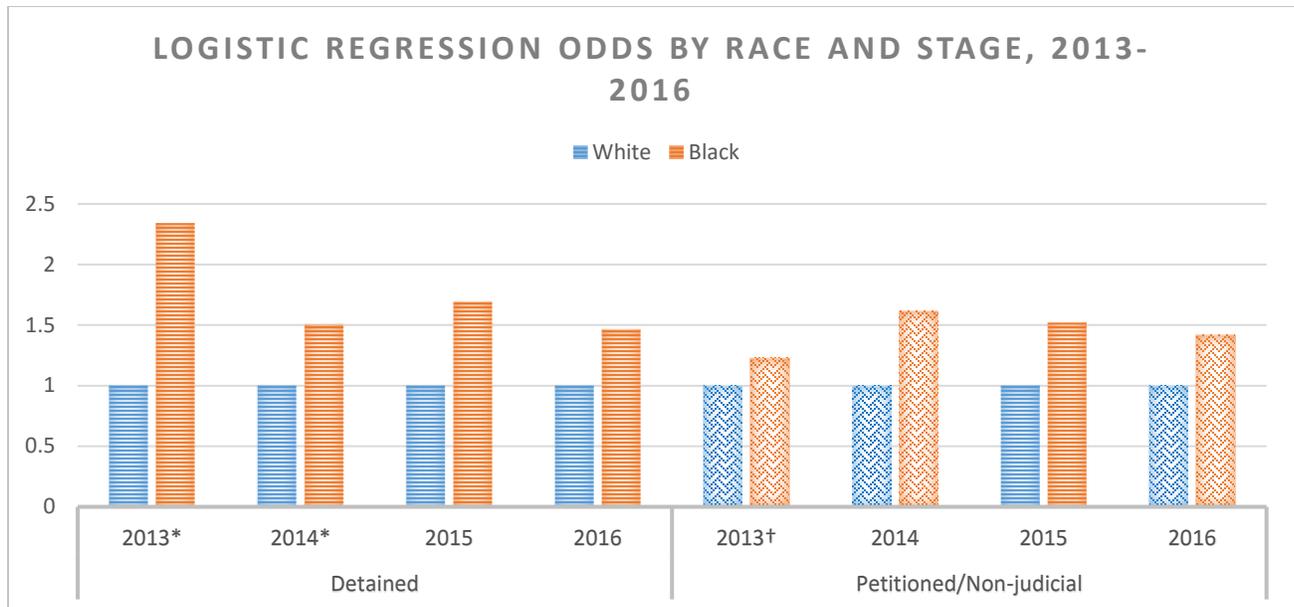
Information from relative rates provides a descriptive picture of the extent of DMC or a count, while assessment studies produce findings that take into consideration alike cases and attempt to examine what outcomes youth receive. A total of six assessment studies have been conducted (one that led in part to the MoU and five since). For the most part, all six assessment studies show that race continues to explain case outcomes even after taking into consideration relevant legal factors, such as crime severity, crime type, etc.

More specific:

- Being Black increases the chances of being detained compared to similar Whites.
- Being Black decreases the chances of receiving a non-judicial outcome (petitioned) compared to similar Whites.

In short, little has changed since the MoU in terms of DMC and the relationship of race to decision-making at the stages of court referral, detention, and non-judicial decision-making. To further illustrate the lack of change, Figure 2 provides the odds derived from the logistic multivariate analysis as part of the assessment of decision making at detention and receiving a non-judicial outcome for Whites and Blacks once factors such as crime severity, prior record, etc. are taken into account.

**Figure 2.** Logistic Regression Odds by Race and Stage, 2013-2016



\* Logistic regression represents interaction between race and person offense; Main race effect not significant

† Logistic regression coefficient not significant

Note: How to read regression odds, for example in 2013, detained 2.34 Blacks to 1 White.

The racial gap decreases after controlling or taking into consideration legal factors (compare to Figure 1). But, Blacks are still more likely to be detained and petitioned than similar Whites (Figure 2). For example, in 2016, Blacks are almost one and a half times more likely to be detained than Whites once legal and extra-legal factors are considered. Likewise, the odds of a Black youth being petitioned is 1.42 than Whites. These relative relationships, for the most part, between race and detention and non-judicial outcomes have remained steady between 2013 through 2016 (meaning race is a statistically significant).

#### WHY HAVE DMC AND THE INFLUENCE OF RACE ON COURT PROCEEDINGS NOT CHANGED?

Again, it needs to be pointed out that the Juvenile Court has attempted to make change in how it is addressing DMC (i.e., in the form of procedures, implementation of initiatives, etc.). While these efforts are to be acknowledged, the Juvenile Court is encouraged to continue these efforts as well as continue to monitor and evaluate procedures and initiatives. Change is a process and

often needs to time before the factors that contribute to DMC and inequitable treatment can be removed and/or altered.

The failure to reduce DMC and the influence of race on court proceedings, especially at detention and the non-judicial stages, can be linked to several factors that have been continuously highlighted and discussed by the previous Compliance Reports written by the Settlement Agreement Coordinator and those by the Equal Protection Monitor. These factors provided insights as to why the intended changes in terms of DMC and greater equitable treatment of Black youth in the Court has not occurred. As listed in the Seventh and Eighth Equal Protection Monitor Reports (June 17, 2016 and November 22, 2016, respectfully), these were: (1) A Lack of Ownership or Leadership concerning DMC; (2) A Lack of the Use of Findings from the Assessment Studies to Drive Strategies, Procedures, and Policy; (3) A Lack of the Examination of and Changes in Existing Procedures and Policies, especially at Referral, Detention and the Non-Judicial Stage; (4) A Lack of Use of Diversion Programs; and (5) The Lack of Movement to Address Notice of and Actual Transfer to Adult Court as Pertains to DMC.

***(1) To address the lack of ownership:*** Pam Skelton (Juvenile Court), Chief Administrative Officer, along with the Equal Protection Strategic Planning Committee, for the most part, assumed the lead on addressing DMC. This occurrence became most evident starting in July of 2016. Since then, Ms. Skelton has shown leadership by among other things organizing meetings, assigning personnel to committees, reaching out to entities in the community (e.g., police), setting up deadlines, etc. with the intent to take on areas of concern and the recommendations detailed in previous Compliance Reports and in particular, those cited in the Seventh and Eighth Equal Protection Monitor Compliance Reports.

**Comment:** It is very apparent that the Juvenile Court has answered the call for taking an active leadership role. While this is good, it is important that this effort continue to strive for and achieve meaningful results in a timely fashion (more on this will be covered in the recommendations section).

***(2) To address the lack of the use of findings from the assessment studies to drive strategies, procedures, and policy:***

AND

***(3) A lack of the examination of and changes in existing procedures and policies, especially at referral, detention and the non-judicial Stage:*** It was recommended to, and the Juvenile Court responded, by collecting additional data tied to “drilling down” further to understand the results from the assessment studies. In addition, results from the assessment studies and data collected by the Juvenile Court have been relied upon to enact changes in strategies, procedures and policies. These efforts have centered on police referrals, secure detention, and non-judicial decision-making within the context of strategies, procedures and policies.

**Comment:** Led by Ms. Skelton and the Equal Protection Strategic Planning Committee discussions and an array of activities have occurred that focus on referral, detention and decision-making at the non-judicial stage. Among these is the focus on summons, the revising

both the DAT (used at the detention stage) and the Graduated Response Grid (used at non-judicial stage).

In partnership with law enforcement, the Juvenile Court has had a Summons program since 2010. The program was implemented as a means for law enforcement to issue summons instead of arrest involving minor offenses, such as simple assault and trespassing. Until recently, however, the Juvenile Court conducted no thorough analysis of the effectiveness of the program as relates to DMC. One problematic practice could have been the inclusion of too many youth through the program (i.e., net widening). In a new initiative, the Summons Review Team (SRT), the Juvenile Court is now tracking information to assess which youth are receiving summons, for what offenses, whether the summons is appropriately being issued, and whether trends exist that need to be addressed with law enforcement. The SRT initiative was fully implemented in the fall of 2016.

The revised DAT or DAT3 was implemented February 1, 2017. The Graduated Response Grid was implemented November 1, 2016. In addition, the Juvenile Court has posted a call for someone to aid them in the further evaluation of the Graduated Response Grid (posted in April of 2017). The use of the STR and the revising and monitoring each of these tools should result in reducing both the number of Black youth in the system and decreasing the racial disparities found at detention and petition (non-judicial).

**Change in the context of reducing DMC has not occurred yet since the data examined for the relative rates and the assessment study cover cases and decision-making for the entire year of 2016. Recall that the SRT was fully implemented in the Fall of 2016, and revised instruments were not implemented until November of 2016 and February of 2017, respectfully. Thus, not enough time has passed since their implementation to effectively alter the overall DMC trends reported in 2016.**

*(4) To address a lack of use of diversion programs:* The Juvenile Court has responded to this concern/recommendation by identifying programs and assessing how often used, eligibility, etc. One such program that emerged from this investigation is the By-Pass program. The By-Pass program is an alternative to placing a youth on probation. It is a 90-day program for age 14 and younger. In addition, summons are being reviewed involving minor misdemeanor offenses as a means to reduce referrals and non-judicial handling – one purpose is to see if the case can be handled with no contact or minimal contact. The Juvenile Court is also looking into greater use of electronic monitoring as an alternative to secure detention. Last, the Parent Orientation program is being used. The Parent Orientation program is for parents where they can ask court personnel questions about juvenile court proceedings. Parents will be also informed as to the importance of what it means to reject an offer to participate in diversion. See also the above discussion of the SRT as a diversionary initiative. Additional efforts include: SHAPE, Porter Leath and Cease Fire.

**Comment:** Strides have been made by the Juvenile Court to address the lack of use of diversion programs and the presence of diversion programs. The implementation of diversion programs is somewhat dependent on the availability of funds. Still, the development and use of existing

diversionary options is imperative and should continue to be a focus by the Juvenile Court. The programs and initiatives and in particular, the SRT effort, need to be available and used to bring about change in DMC and in particular, having Black youth participate in such programs.

*(5) To address the lack of movement to address notice of and actual transfer to adult Court as Pertains to DMC:* The Juvenile Court needs to figure out a way to address this issue. Admittedly, most of decision-making rests with the prosecutor.

**Comment:** There is a continued need for a dialogue with the District Attorney and the Juvenile Court to assess the overrepresentation of Black youth at these stages. Until this is done, DMC will continue to exist at this stage in the proceedings.

The Compliance Reports also centered on the improvement of community out-reach of the juvenile court. This included, but was not limited to, improving the Webpage and other electronic methods (i.e., twitter, Facebook), reaching out to the community including the Consortium and working with other entities, persons and agencies in the community that deal with DMC issues and the hiring of person to do out-reach. The Juvenile Court has done a good job in the varied forms of community out-reach.

**In summary,** the Juvenile Court is laying the foundation to reduce the presence of DMC (as measured by counts and the relative rates) that may also result in equitable treatment of all youth (as measured by the results from assessment studies). **If the Juvenile Court continues to be an active participant and continues to enact changes in policies and procedures, it is anticipated that reductions (numbers, racial gap) and greater equity in the treatment of all youth will occur in court referrals, secure detention, and non-judicial outcomes.**

**It is important to note, however, that it will take time for these changes in reductions and equitable treatment to occur and to be formally documented as time is needed to allow these efforts to unfold. Assessments involving data for 2017 will be paramount in determining how effective these initiatives are in reaching their objectives.** Thus, it is important that the Juvenile Court be aggressive in the pursuit of the many strategies involving referral, secure detention and non-judicial handling. A top priority should be monitoring and evaluation of each in terms of achieving a reduction in DMC and increased equity in the treatment of all youth.

## RATINGS TOWARD COMPLIANCE

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

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

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

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

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

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

Table 1. Compliance Rating by Provision

Identifier	Provision	Compliance Rating
1a	Identify all data collection needs at each major Decision Point	<b>PC</b>
1c	Identify staffing needs to collect, evaluate & report data	<b>SC</b>
1e	JCMSC shall identify and designate a point of contact within each department to reduce DMC	<b>PC</b>
1f	Collect data and information required to determine where DMC occurs	<b>PC</b>
1d	Shelby County Mayor shall appoint a coordinator responsible for oversight of the progress on reducing DMC	<b>SC</b>
1b (9 months) i-vi	JCMSC shall augment the appropriate data collection method to assist in its evaluation of its DMC levels, causes, and reduction.... This includes information on points of contact, the RRIs, and available diversion options for youth appearing before JCMSC	<b>PC – Assessment – Leiber</b> <b>PC – Staff reports</b>
1g (9 months)	Assess impact policies/procedures/programs on DMC levels at each decision point and conduct inventory of services and options...	<b>PC</b>
1h (9 months)	Complete and implement strategic plan to reduce DMC; Court DMC Coordinator is working on this and has developed 30-60-90 work plan	<b>PC</b>
2a	Revise policies, procedures, practices, and existing agreements to reduce DMC at each Decision Point and encourage objective decision making in all departments	<b>PC</b>  <b>PC</b>

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

	Staff involved with the delinquency docket should receive training of at least 4 hours.	<b>PC</b>
5	<p>Develop and implement a community outreach program to inform community of progress toward reforms.</p> <p>This should include a county-wide consortium that includes but is not limited to six to nine citizens selected by the Mayor and approved by the County Commission.</p> <p>Open meeting every six months</p> <p>There is a need for summaries of reports to be posted</p> <p>JCMSC shall publish on its website annual reports in accordance with the Agreement. Terminated, no longer being monitored.</p> <p>The Community Outreach program should include a data dashboard that communicates compliance on the part of JCMSC with the Agreement.</p> <p>A community survey shall be conducted (<b>one year</b>)</p>	<p><b>PC</b></p> <p><b>PC</b></p> <p><b>SC</b></p> <p><b>SC</b></p> <p><b>SC</b></p> <p><b>SC</b></p> <p><b>BC/CLTBD</b></p>

## 1. DMC Assessment

- (a) Identify all data collection needs at each major Decision Point (p. 21)  
**STATUS-PARTIAL COMPLIANCE (PC)**  
 DISCUSSION: Collection needs have been identified for each data point.  
 Committees have begun to interpret and develop action steps
- (c) Identify staffing needs to collect, evaluate & report data (p. 22)  
**STATUS-SUBSTANTIAL COMPLIANCE (SC)**  
 DISCUSSION: This has been done.
- (e) JCMSC shall identify and designate a point of contact within each department to reduce DMC (p. 22).  
**STATUS-PARTIAL COMPLIANCE (PC)**  
 DISCUSSION: The Strategic Planning Committee has been developed and has been meeting to address DMC with a focus on referrals, secure detention, non-judicial decision-making and the use of diversion.
- (f) Collect data and information required to determine where DMC occurs (p. 22)  
**STATUS-PARTIAL COMPLIANCE (PC)**  
 DISCUSSION: Information has been collected and examined in general and by zip code among other things (e.g., referring agency, schools, etc.). Specific information on detention, alternatives to detention, and to some degree, transfer recommendations, has been collected and analyzed. While data has been collected, continue discussion is needed as to what the data means and what can be done to address DMC.
- (d) Shelby County Mayor shall appoint a coordinator responsible for oversight of the progress on reducing DMC (p. 22).  
**STATUS-SUBSTANTIAL COMPLIANCE (SC)**  
 DISCUSSION: The County DMC Coordinator was hired in February of 2013. Work had been done with Staff, the Points of Contact, development of reports and to some degree has been involved in community outreach. As stated previously, the Court DMC Coordinator and the County DMC Coordinator should collaborate to some degree on tasks, such as community out-reach and the strategic plan. The County DMC Coordinator has also acted as an independent overseer of the activities of the Court.

## 1. DMC Assessment

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

**DISCUSSION:** The 6th assessment study was conducted by Leiber, process will continue with working relationship with Court to improve data examined. Staff has produced many documents using data and RRI. Listing of diversion programs has occurred. Mapping and interpretation and action with the needs to be done.

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

**STATUS-PARTIAL COMPLIANCE (PC)**

**DISCUSSION:** The Juvenile Court and the various committees have begun to collect data, examine the data and have had discussions and meetings as to what to do to address DMC and issues pertaining to the results from the assessment studies. These are good first steps; efforts need to continue to make change in policies and procedures, implementation of programs and altering of structured decision-making tools – DAT, RESPONSE GRID.

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

**STATUS-PARTIAL COMPLIANCE (PC)**

**DISCUSSION:** Already discussed. Juvenile Court is now using framework used to guide this compliance report as their strategic plan. The Juvenile Court has shown a much stronger commitment to address DMC than in the past.

2. DMC Policies and Procedures

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

**STATUS-PARTIAL COMPLIANCE (PC)**

**DISCUSSION:** Already discussed.

**STATUS-PARTIAL COMPLIANCE (PC)**

**DISCUSSION:** Structured decision-making tools have been adopted, revised, and implemented. However, efforts to revise need to continue.

- (b) Revision of the above to include: (p. 23)
- (i) Collection of sufficient data
  - (ii) Provision requiring least restrictive options and alternatives to a detention setting
  - (iii.) Guidelines identifying a list of infractions for which a child shall NOT be detained
  - (iv.) Guidelines identifying a list of infractions for which a child may be detained
  - (v.) Training and guidance on the use of existing and new objective decision making tools
  - (vi.) Requirement that a supervisory authority review all overrides within each department on, at minimum, a monthly basis.

**STATUS-PARTIAL COMPLIANCE (PC)**

DISCUSSION: Already discussed, training, adoption, and implementation of objective tools has occurred. Issues already discussed.

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

**STATUS-PARTIAL COMPLIANCE (PC)**

DISCUSSION: Already discussed. But, for the purpose of record, the RESPONSE GRID (formerly the Graduated Sanction Grid) and the DAT are being reviewed from the perspective of DMC implications. A Preventative Contact Approach – Summons Alternative Strategy – Graduated Response Grid -proposes to reduce the number of referrals to the Court and decrease further processing through the system. The SRT is part of this process. Also includes a proposed GSG that would decrease cases moving further through the juvenile justice system. These proposals represent creative approaches that have great potential to reduce DMC. It is very encouraging to see this type of approach being brought forward. In addition, the Juvenile Court has been meeting with the Memphis Police Department in an attempt to reduce referrals in general and referral to secure detention.

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

- (a) Use of objective decision-making tools, etc.  
**STATUS-PARTIAL COMPLIANCE (PC)**  
DISCUSSION: Already discussed
- (b) Refine decision-making tools, etc.  
**STATUS-BEGINNING COMPLIANCE (PC)**  
DISCUSSION: Already discussed.
- (c) Implementation of a pilot program involving sheriff, police and the summons program  
**STATUS-BEGINNING COMPLIANCE (BC)**  
DISCUSSION: Agreement in place and implementation, training and evaluation needs to be part of effort
- (d) Use of alternatives, including a pilot diversion program to secure detention, day/evening reporting center, the Law Enforcement Assistance Program, expansion of SHAPE, expansion of Electronic Monitoring, CEASE FIRE, etc.  
**STATUS-BEGINNING COMPLIANCE (BC)**  
DISCUSSION: Already discussed. It is important to note planned expansion of

use of electronic monitoring. As stated in previous Compliance Reports, all of these strategies and programs need to be critically examined to assess/evaluate if address DMC.

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

**STATUS-BEGINNING COMPLIANCE (BC)**

DISCUSSION: These items have been discussed previously. Positive steps have been taken. Need to continuously review and revise if need be. Discussions with Prosecutor need to continue to address Notice to Transfer to adult court.

4. Training (p. 26-27)

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

**STATUS-SUBSTANTIAL COMPLIANCE (SC)**

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

5. Community Outreach as stated in Agreement

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

**STATUS-PARTIAL COMPLIANCE (PC)**

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

**STATUS-PARTIAL COMPLIANCE (PC)**

DISCUSSION: A county-wide Consortium has been formed and appears to be representative of the community. Efforts have been made to reach out to the community and the Juvenile Court. Likewise, efforts have been made to diversify the Consortium. It appears that the Consortium is on the right track. The Consortium established the parent orientation program.

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

**STATUS-SUBSTANTIAL COMPLIANCE (SC)**

DISCUSSION: Public meetings have been held. Further, the Juvenile Court is making efforts to be engaged with the community.

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

**STATUS-SUBSTANTIAL COMPLIANCE (SC)**

DISCUSSION: This appears to have occurred

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

**STATUS-SUBSTANTIAL COMPLIANCE (SC)**

DISCUSSION: These activities have occurred. Terminated. No longer being monitored.

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

**STATUS-SUBSTANTIAL COMPLIANCE (SC)**

DISCUSSION: A dashboard has been developed and placed on the Court website. Much work on this has occurred over the last 5 months. Links, compliance reports, figures and the Settlement Agreement are just a few examples of what has been placed on the dashboard. Both the County DMC Coordinator and the Court DMC Coordinator as well as the JDAI contact person have been very active in the community in terms of presentations, sitting on committees, and seeking out working relationships with community agencies and programs with the police. A Calendar of Quarterly Community Meetings for 2016 – 2017 has been established.

- (f) A community survey shall be conducted (**one year**) (p. 34)

The survey should measure public satisfaction, attitudes among court personnel and community members both within Memphis and the County and should be representative of gender, race/ethnicity.

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

DISCUSSION: A survey of the community is taking place after many delays that were not the fault of the Court. A contract has been awarded to Dr. Laura Harris and she is working with a group contracted by OJJDP and in particular, Tom Harig. Although falling outside the time-frame of this compliance report (as stated at the beginning of this report, the time-frame assessed is November 23, 2016 to April 26, 2017), as of June 15, 2017, the survey has been suspended by parties outside that of the Juvenile Court.

Appendix 1 – 6<sup>th</sup> Assessment Study  
Part of 9<sup>th</sup> Equal Protection Compliance Report  
July 1, 2017

## ASSESSMENT BRIEF

The summary and impressions discussed reflect activities by Shelby/Memphis Juvenile Court (Juvenile Court) up to April 26, 2017. Many of the areas of concern that were the impetus for the Memorandum of Agreement (MoU) have continued to exist over the last 47 months or so. The Juvenile Court has taken ownership and has made strides but DMC and the disparate treatment of Black youth still exists. More specifically:

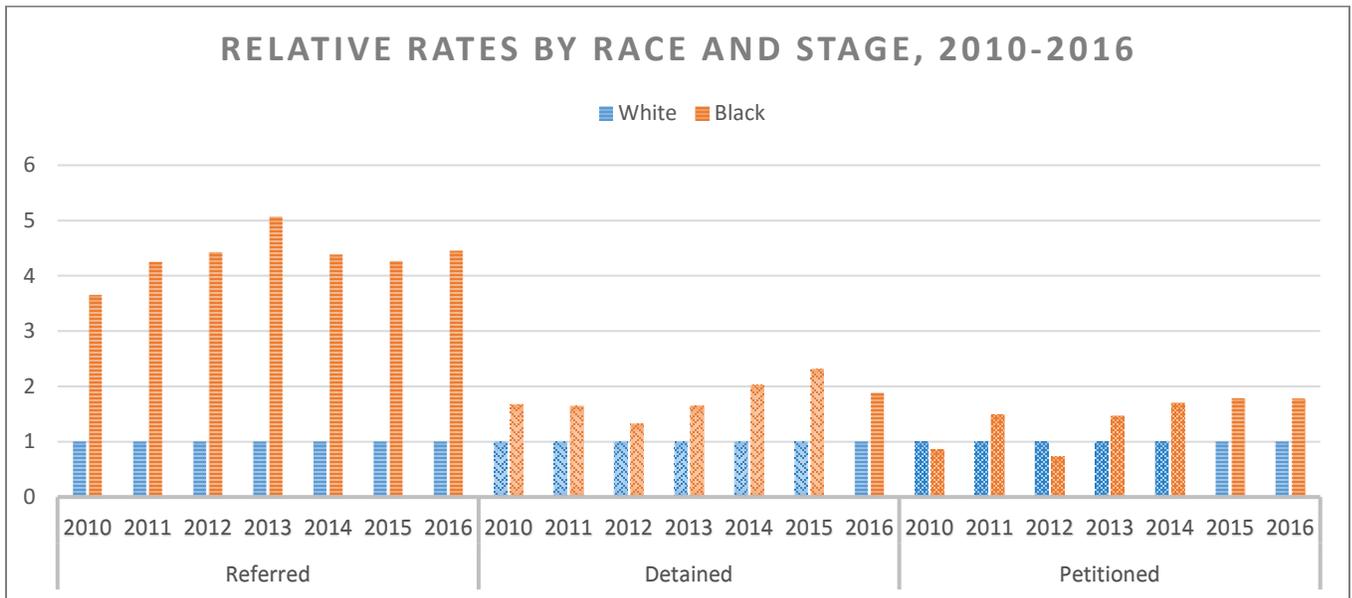
- **DMC** as measured by the relative rate and in terms of equity for similar offenders, irrespective of race, **HAS NOT CHANGED** and continues to be a problem for the Court.
  - First, it is important to point out that both the relative rates and the numerous studies that have been reported on over the last 4 years, including the results from the 6<sup>th</sup> assessment study to be discussed within this brief, continue to show, for the most part, that DMC remains a problem for the Court.
  - Continued evidence also suggests that race still impacts decision-making even after factors such as the severity of the crime are taken into consideration.
  - DMC is a continued issue at referral, secure detention and the non-judicial stages.

Key findings from the 6<sup>th</sup> Assessment study are summarized below:

- While the number of referrals has declined over time, the racial breakdown remains disproportionate.
- Likewise, although the overall number of youth held in secure detention has decreased, a racial gap remains and in fact has not decreased. Race still matters once all other factors are considered at detention.
- Black youth continue to be underrepresented in diversion.
- Blacks continue to have increased odds of being disadvantaged relative to their similarly situated White counterparts at the non-judicial stage – they are more likely to move further into the judicial proceedings.
- Although overall numbers appear to have declined, significant overrepresentation of Black youth exist for receiving Notice to Transfer to adult criminal proceedings and actual waiver to adult court (only three youth waived were White).

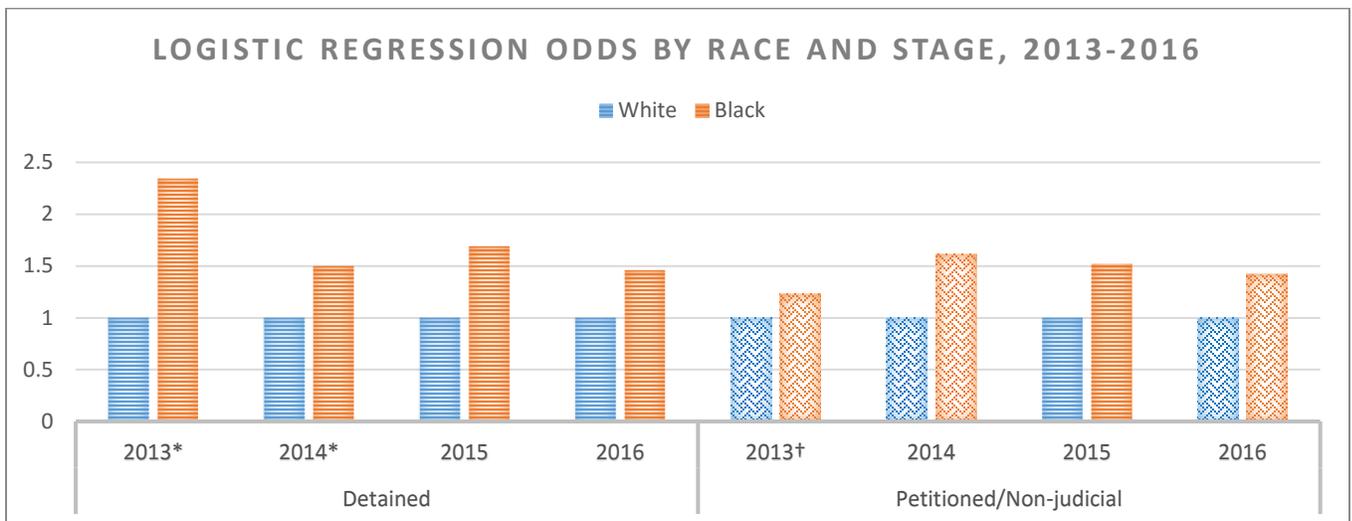
To illustrate the continuation of DMC and the lack of change, Figure 1 presents the relative rates for the years 2010-2016 by referral, detention and non-judicial or what will be referred to as petition. Figure 2 provides the odds for Whites and Blacks once factors such as crime severity, prior record, etc. are taken into account for the years 2013-2016. See next page (pg. 2).

**Figure 1.** Relative Rates by Race and Stage, 2010-2016



Note: How to read relative rate index (RRI), for example in 2010, referred to juvenile court 3.65 Blacks to 1 White.

**Figure 2.** Logistic Regression Odds by Race and Stage, 2013-2016



\* Logistic regression represents interaction between race and person offense; Main race effect not significant

† Logistic regression coefficient not significant

Note: How to read regression odds, for example in 2013, detained 2.34 Blacks to 1 White.

As can be seen in Figure 1, 1 White to 4.45 Black youth are referred to court in 2016 compared to 1 White to 3.65 Black youth in 2010. Similar trends, for the most part, exist for detention and petition. While the racial gap decreases after controlling or taking into consideration legal factors, Blacks are still more likely than similar Whites to be detained and petitioned (Figure 2).

Overall, the above findings have been consistently reported by all 6 assessment studies to date. The role of race and DMC in court referrals and court outcomes continue despite the use of SHAPE, Porter Leath, the Expedited Review, the SUMMONS program, JDAI reform at detention, and the implementation of structured decision-making tools at detention and at the non-judicial stage.

### *Recommendations*

- The Juvenile Court has taken ownership of the DMC issue and this is evident by among other things the use and expansion of SHAPE and Porter Leath, the use of beds at Youth Villages, discussions/training of the Memphis Police Department, including those in higher administration, the use of expedite evaluation and review, and greater use of summons as a means to avoid juvenile court contact. These initiatives represent a good effort, but each needs to be evaluated to assess if such efforts are producing the intended results as well as whether they should be used in greater frequency to reduce the number of youth, especially Black youth, referred to juvenile court.
- The Juvenile Court has attempted to revise the DAT (in particular with a focus on the history of prior offenses, certainty of appearance, and threat to danger to self/others). The revised DAT was implemented February 1, 2017. To reduce DMC and achieve equitable treatment for all youth at detention, the DAT needs to be closely examined, evaluated, and revised in a timely manner. Likewise, the implementation and possible greater use of the Expedite review, especially for misdemeanor offenses and electronic monitoring may aid in reducing the number of Black youth referred and placed in secure detention.
- The Court has been reviewing the Graduated Response Grid and how it contributes to DMC and disparate treatment of Black youth at the non-judicial stage. The Response Grid has been revised and implemented in November of 2016. In April of 2017, the Juvenile Court posted an RFP to secure help in evaluating the Revised Graduated Response Grid. While this is good, too much time had passed since the meeting in July of 2016, where the Graduated Response Grid was discussed as a contributing factor to DMC, to the posting of the RFP in April of 2017. Like the DAT, the Graduated Response Grid needs to be continuously monitored and evaluated to possibly change the continuing race issue at this stage. This process should occur sooner than later.

- It is recommended that the Juvenile Court implement, expand and evaluate diversionary efforts to reduce DMC, especially for minor offenses and domestic assaults. The Juvenile Court has begun to look into the greater use of the By-Pass program and the SRT initiative as methods to do this.

In short, the Juvenile Court has now taken ownership of the DMC issue it is facing. Still, the efforts that have been implemented and are underway must be aggressively used and pursued to alter the continuing presence of DMC and attain equal protection for all youth.

It should also be noted that the sixth assessment study is based on data for 2016. This is important to point out as a number of the initiatives used by the Juvenile Court were implemented in the latter part of 2016, and in the case of the DAT 3, in February of 2017. Thus, these efforts most likely would have had little impact on changing DMC at referral, secure detention and decision-making at the non-judicial stage (petition) in 2016 given the short time since implementation.

The Sixth Assessment Study is presented on the next page (pg. 5).

## 6<sup>TH</sup> ASSESSMENT STUDY

### *Background*

A Memorandum of Agreement (MoU) regarding the Juvenile Court of Memphis and Shelby County was signed December 17, 2012 by the United States Department of Justice, Civil Rights Division, and the County Mayor and County Attorney, and the Juvenile Court of Memphis and Shelby County (JCMSC) to address the administration of juvenile justice for youth facing delinquency before the juvenile court and the conditions of confinement of youth at the detention center operated by the juvenile court. The Parties selected Dr. Michael J. Leiber as the Equal Protection Monitor of the Agreement. The Agreement requires the Monitor to assess the level of compliance by the juvenile court every six months and to produce reports. A ninth Equal Protection Monitor Report that included an Assessment Study has been completed as part of the MoU.

Before the studies are discussed, it is important to provide additional background. More specific, the existence and level of Disproportionate Minority Contact (“DMC”) occurring at each phase of the juvenile court process can be captured by the relative rate index (RRI). DMC is the term used to describe the overrepresentation of minority youth in the juvenile justice system. The RRI provides a snapshot or a description of the youth in the juvenile justice system during a specified time-frame and at stages in the system. The RRI was and will be used to measure the level of DMC at stages for Black youth as compared to White youth. While valuable, the RRI can only provide insight on the level of DMC at stages and cannot tell us *why* DMC is occurring. Instead, an assessment study using multivariate statistics in the form of logistic regression permits such an inquiry. Logistic regression is a statistical technique that takes into consideration a variety of factors to predict the likelihood of a case outcome. In essence, there is an attempt to model what legal (e.g., crime severity, prior record) and extra-legal (e.g., race) considerations used by decision-makers to arrive at an outcome. Legal factors and to some extent extra-legal factors can be relied upon to make a juvenile justice outcome due to its *parens patriae* foundation, such as crime severity and assessments about the family environment. Race, however, should not be predictive of a stage outcome once all legal and other extralegal factors are considered. If race does not indicate a statistically significant presence, then DMC is explained by differences, for example, in legal characteristics (i.e. crime severity). If race is a statistically significant indicator, then something else in addition to legal and other extra-legal factors accounts for DMC. One possibility is bias that may be present in the form of overt and/or indirect or subtle bias.

An example of direct bias is arriving at a decision solely on the basis of a youth’s race. An example of subtle bias is making a decision that is not necessarily based on race but on a reliance on a legitimate criterion. For example, prior record can be used by court personnel when assessing what the court should do with a youth. Prior record, however, may be a racially tainted criterion since in many jurisdictions, including Shelby County, Black youth are overrepresented in court referrals by law enforcement in the form of arrests. While arrest can be an indicator of law breaking behavior, arrest can also be a function of police procedures and deployment. Consequently, if Black youth are more likely to have a large number of arrests (whether it is because of unlawful behavior and/or as a by-product of where police patrol), Black youth are likely to receive harsher outcomes than Whites.

### ***DOJ Findings Prior to Agreement***

As reported in the Investigation of the Shelby County Juvenile Court (2012), the Department of Justice (DOJ) examined the relative rate indexes and conducted an assessment study using multivariate analyses. These findings, in part, showed DMC at almost every stage and revealed race to be a determinant of decision-making once relevant factors were considered. For the RRI's, data was used from 2007 through 2009. For the assessment study, court data was used from 2005 through 2009, though further analysis was conducted with 2010 data and did not alter the findings reported using data submitted by the Juvenile Court of Memphis and Shelby County (JCMSC, referred from now on as Juvenile Court) to Tennessee from 2005 through 2009. In summary, Blacks were found to be most overrepresented at referral, secure detention, placement in secure confinement, and transfer to adult court. Black youth were found to have a lesser chance of receiving both the non-judicial outcome of a dismissal or warning, and of a fine, restitution or public service sanction than alike White youth. In addition, Blacks were more likely to be held in detention and reach adult transfer consideration than similarly situated Whites. The overall conclusion was that these findings do not comport with the Equal Protection Clause and Title VI. More specific, the findings showed evidence of discriminatory treatment of Black youth compared to White youth.

As stated in the Agreement between Shelby County and the Department of Justice, within nine months, the Juvenile court “shall augment the appropriate data collection method to assist in its evaluation of its DMC levels, causes, and reduction.... This includes information on points of contact, the relative rate indexes, and available diversion options for youth appearing before JCMSC...” (p. 22). As part of the Agreement, the Equal Protection Monitor, Michael Leiber, conducts assessment studies of the level and causes of DMC. Six assessment studies (including the present assessment research) have been conducted to date following the Agreement.

Next, in this sixth assessment by Leiber, trends in the form of relative rate indexes are first presented to examine the extent or level of DMC. Results from the sixth assessment study using logistic regression are also provided to tap into the possible causes of DMC. Discussion is provided comparing and contrasting trends in the results from both the relative rates and the six assessment studies.

### ***Stages of Juvenile Justice Measured as Part of the Relative Rate Index***

The RRI includes the rate of occurrence for different racial groups in each major stage of the juvenile justice process. The stages include the following:

- |                                 |   |
|---------------------------------|---|
| (1) Juvenile Arrests            | This stage consists of all juvenile arrests. Arrest is not a focus of this study.   |
| (2) Referrals to Juvenile Court | This category includes children who are brought before the juvenile court on delinquency matters either by a law enforcement officer, a complainant (including a parent), or by a school. |

- 
- (3) Cases Diverted  
This category includes children who are referred to juvenile court, but whose matters are resolved without the filing of formal charges. The charges against these children may be dismissed, resolved informally, or resolved formally through probation, an agreement, community service or various other options that do not include continuing through the formalized court process.
- (4) Cases Involving Secure Detention Prior to Adjudication  
This category includes children who are held in a secure detention facility before the final disposition of their cases. Some jurisdictions include children who are awaiting placement following the disposition of their cases in this category.
- (5) Cases Petitioned  
This category includes children who are formally charged with a delinquency matter and are required to appear on the court calendar. When a child is formally petitioned, the court is requested to adjudicate the matter or transfer the matter to the criminal court.
- (6) Cases Resulting in Delinquent Findings  
This stage encompasses a court finding that the child has been found delinquent, a formal finding of responsibility. The child would then proceed to a dispositional hearing where he or she may receive various sanctions including probation or commitment to a secure residential facility.
- (7) Cases Transferred to Adult Criminal Justice System  
This category consists of cases that have been transferred to the adult criminal court following a judicial finding that the matter should be handled outside of the juvenile system.
- (8) Cases Resulting in Probation  
This category includes cases where the child is placed on probation following a formal adjudication. This does not include the children whose cases were diverted earlier in the process.
- (9) Cases Resulting in Confinement in Secure Juvenile Correctional Facility  
This category includes cases where the child has been formally adjudicated and placed in a secure residential facility or a juvenile correctional facility.

### ***Interpreting the Values in the Relative Rate Index (RRI) for JCMSC***

The below is taken from the Investigation of the Shelby County Juvenile Court report (2012) to explain how to interpret the RRI (see pgs. 27-28). The RRI formula lists the numerical indicator of the level of disparity or difference in contact in each stage that a particular racial or ethnic group has in the reporting system. The formula compares the ratio of Black children to the ratio of White children for each stage of the process. A numerical value of 1.0 is neutral. A numerical value exceeding 1.0 means that Black children have a higher rate of representation at the particular stage being considered. A numerical value below 1.0 means that Black children have a lower, statistically significant, rate of contact in that stage as compared to White children in that stage.

The first step in determining RRI is to determine the total number of events, categorized by race, in each phase of the juvenile court system. Then, for each racial or ethnic category, the RRI formula divides the number of events for each phase by the number of events in the preceding phase to determine rates for each phase. This means that the RRI is calculated by comparing the rates for Black children to rates for White children by dividing the rate of Black children by the rate for the White children. For example, if a system incurred 20 juvenile arrests consisting of 10 White children and 10 Black children, and all 10 of the Black children were referred to juvenile court, but only 5 of the White children were referred, then the resulting rate of referral to juvenile court for Black children would be 1.0, and the rate for white children would be 0.5. The resulting RRI would equal 2.0, a value twice that of the neutral 1.0. RRI values that differ from the neutral 1.0 are marked as statistically significant, meaning that the difference in rates of contact is not likely to be the result of a chance or random process. Recall that the RRI does not control for the differences in the youth's underlying charges and/or school or family situation.

### ***Relative Rates Index (RRI) 2010 through 2016***

Presented in Table 1 (pg. 10) are the relative rate indexes for the years 2010 through 2016. Data for 2009 will not be reported in the Table. The breakdown for each stage in terms of the relative rate for 2009 is as follows:

	<u>RRI - 2009</u>
Refer to juvenile court:	3.4
Cases diverted:	0.9
Secure detention:	2.1
Petitioned:	1.2
Adjudicated delinquent:	1.3
Probation (judicial disposition):	1.0
Confinement (judicial disposition):	1.7
Transferred:	2.3

Data was provided by the Juvenile Court of Memphis and Shelby County (JCMSC). As can be seen in Table 1 (pg. 10), Black youth are disproportionately overrepresented in 3 stages in 2016: referral to the juvenile court, secure detention, and cases petitioned. Black youth are underrepresented in cases that are diverted, adjudicated delinquent and probation at judicial disposition. The following narrative summarizes these results.

1. The relative rate index involving **referrals to court** remains high at 4.45. In other words, almost 4 and a half Black youth per 100 youth are referred relative to 1 White youth per 100 youth. Thus, the number of referrals for both Whites and Blacks are down which is good (not shown). **But, the relative overrepresentation of Black youth to White youth in court referrals continues to be an issue that has shown relatively no change over the last 8 years (which include 2009).**
2. **Black youth continue to be underrepresented for cases diverted.** In 2009, the RRI was .90, in 2016 the RRI is .95.
3. RRI values pertaining to secure detention initially showed a decline from 2.1 in 2009 to 1.32 in 2012. But starting in 2012 through 2015, an increase in disparities related to secure detention was evident at 2.31. Although the overall number of youth involving secure detention has reduced significantly over the years for both White and Black youth, **Blacks are still being detained more so relative to Whites.** It should be noted that the RRI did go down to 1.89. Still, this is an area that the Court will need to continue to address.
4. The RRI's for cases **petitioned** show overrepresentation and have been slowly **rising** from 0.73 in 2012 to 1.46 in 2013 to 1.69 in 2014 to 1.78 in 2016.
5. Although the relative rates resulting in delinquent findings and probation at judicial disposition shows no real pattern, it is important to note that the Court went from an overrepresentation of Black youth in 2015 (RRI of 1.70 for delinquent findings) to a slight underrepresentation in 2016 (RRI of .94). The same is true regarding probation at judicial disposition, where again there is a slight underrepresentation of Black youth (RRI of 1.29 in 2015; RRI of .90 in 2016).
6. Although rates for cases resulting in **confinement in secure juvenile facilities** began to show a decline from 1.7 in 2009 to 1.30 in 2012 and 1.05 in 2013 and the relative rate shows an increase to 1.50 in 2014 and 1.65 in 2015, there appears to be a reduction in the number of youth receiving a disposition involving an out-of-home placement (as there were not enough cases to calculate the RRI for 2016). This is a good sign. **Still, only 8 Whites received an out-of-home placement compared to 196 Blacks.**
7. In terms of the relative rate, **youth waived to adult** court has remained relatively the same from 2009 to 2012 (2.3 in 2009, 2.23 in 2012). RRI analyses for this decision stage were not conducted for the year 2013 through 2016 as the number of cases was insufficient. It is important to point out that based on data from the Court, while the disparity between Whites and Blacks appears to have stayed relatively the same over the years, the number of youth waived to adult court has declined from 225 in 2008, to 199 in 2009, 151 in 2010, 121 in 2011, 99 in 2012, 90 in 2013, 77 in 2014, and 31 in 2015. The number of youth recommended for a waiver or given notice of transfer is high at 256 in 2013, 190 in 2014, and 153 for 2015. For 2016, 128 youth were given a notice of transfer (10 White, 118 Black). Of the youth waived, 3 were White and 42 were Black.

Recall that a relative rate index of 1 is neutral or 1 White per 100 youth to 1 Black per 100 youth. Anything above 1 indicates overrepresentation; anything below, underrepresentation. Overall, Black youth are and continue to be overrepresented at several stages relative to White youth in the JCMSC's juvenile justice system especially at court referral and secure detention.

**Table 1.** Rates of Juvenile Court Actions and Relative Rate Index, 2010-2016

Decision Stage (and base rate for calculation)	RRI 2010	RRI 2011	RRI 2012	RRI 2013	RRI 2014	RRI 2015	RRI 2016
1.Refer to Juvenile Court (per 1000 population)	<b>3.65</b>	<b>4.25</b>	<b>4.42</b>	<b>5.06</b>	<b>4.38</b>	<b>4.26</b>	<b>4.45</b>
2. Cases Diverted (per 100 referrals)	<b>0.95</b>	<b>0.83</b>	<b>0.93</b>	<b>0.88</b>	<b>0.92</b>	<b>0.91</b>	<b>0.95</b>
3. Cases Involving Secure Detention (per 100 referrals)	<b>1.67</b>	<b>1.65</b>	<b>1.32</b>	<b>1.64</b>	<b>2.02</b>	<b>2.31</b>	<b>1.89</b>
4. Cases Petitioned (charge filed per 100 referrals)	<b>0.85</b>	<b>1.49</b>	<b>0.73</b>	<b>1.46</b>	<b>1.69</b>	<b>1.79</b>	<b>1.78</b>
5. Cases Resulting in Delinquent Findings (per 100 referrals)	<b>2.00</b>	<b>1.44</b>	<b>2.11</b>	<b>1.16</b>	<b>1.18</b>	<b>1.70</b>	0.94
6. Cases resulting in Probation Placement (per 100 found delinquent)	<b>0.91</b>	1.04	0.97	1.04	1.05	<b>1.29</b>	0.90
7. Cases Resulting in Confinement in Secure Juvenile Facilities (per 100 found delinquent)	<b>1.19</b>	<b>1.76</b>	<b>1.30</b>	1.05	<b>1.50</b>	1.65	-
8. Cases Transferred to Adult Court (per 100 referrals)	<b>2.86</b>	<b>1.42</b>	<b>2.23</b>	-	-	-	-

- Insufficient number of cases; unable to conduct RRI analyses for decision stage

Note: Data for 2010-2016 provided by Juvenile Court of Memphis and Shelby County (JCMSC). How to read relative rate index (RRI), for example in 2016, *Refer to Juvenile Court* as 4.45 Blacks to 1 White.

### ***Logistic Regression Results***

An examination of the relative rate indexes show that DMC continues to exist. The RRI's reveal overrepresentation at referral to the juvenile court, secure detention, cases petitioned, cases resulting in delinquent findings, and those placed in confinement in secure facilities referral. Although in decline, Blacks comprised most of the youth that received a notice for waiver to adult court. Recall that the RRI provides information concerning the extent of DMC and does not inform us of the causes of DMC. Next, multivariate analyses in the form of logistic regression, is used to give added insight into the predictors of case outcomes or the underlying causes of DMC. The DOJ study and the previous five assessment studies by Leiber reported evidence of selection bias once this statistical technique was utilized. The purpose of this sixth assessment study is to examine the extent to which race still matters once legal (i.e., crime severity) and extralegal (i.e., age) factors are considered.

### **Data for the Current Study**

For the purpose of this study, data was obtained directly from the Shelby County Juvenile Court. This data was cleaned for the objective of conducting the research. More specific, raw data of all delinquent referrals in Shelby County for the year 2016 (N= 139,689) were provided. The dataset was converted from Excel to SPSS format and all analyses were conducted using the SPSS statistical software.

The data was first sorted according to three variables: juvenile id, complaint date, and disposition severity (disposeverity). Based on this command, only the referral/complaint with the most severe disposition outcome for a given complaint date would be retained for each juvenile. In addition, complaints filed within 7 days of one another under the same juvenile id were assumed to be linked to the same incident, and therefore only the complaint with most severe disposition outcome within 7 days was retained. The steps taken to clean the data for analysis purposes are consistent with those used in the previous five Assessment studies.

The final data consists of N=4,779 distinct referrals for the one year period of January 1, 2016 through December 31, 2016. The data distributions parallel the Shelby county Court data by distinct complaints, as evidenced in Table 2 on the next page (pg. 13).

**Table 2.** Data and Distributions by Stages from January through December 2016

Stages <sup>c</sup>	<u>Shelby Juv. Court<sup>a</sup></u> (N=4,951) N	<u>Leiber<sup>b</sup></u> (N=4,779) N
Detention		
No	4,052	3,985
Yes	899	794
Non-judicial		
Yes	4,486	3,275
No	1,664	1,504
Adjudication		
No	409	378
Yes	1,255	1,126
Judicial disposition		
Probation	810	922
Placement	348	204
Waiver <sup>d</sup>		
No	----	128
Yes	83	45

a: Shelby county data counted by distinct complaints as taken from JCMSC 2016 RRI Report

b: Dataset provided by Shelby county and cleaned to represent distinct referrals

c: Stages created using disposition outcomes of the data cleaned to represent distinct referrals

d: Waiver as presented in JCMSC 2016 RRI Report includes all transfers to adult court in 2016 regardless of the initial complaint date; Waiver as created from dataset provided by Shelby county represent all transfers to adult court with a complaint date in 2016 only.

---- Information not provided

## Variables

Table 3 (pgs.16-17) provides the independent and dependent variables used for the logistic regression analyses. The selection of variables was based on available data, the DOJ study, and past research dealing with assessment studies. The first assessment study and the present assessment study include independent variables (e.g., prior referrals, custody) and stages (e.g., adjudication, judicial disposition) not included in the DOJ study. The inclusion of these variables was done to provide a more detailed examination of the factors that may impact decision-making and possibly provide a better context for understanding the presence and/or absence of bias.

*Independent.* Eighty-seven percent of the sample is Black. Males comprise 74 percent of the sample and the average age of youth is 15 years old. Two measures of school status are used: attending school v. else and whether the youth was in special education. Ninety-one percent of the sample was reported to be in school full-time while just 10 percent were in special education. The current living situation of a youth is captured by two dummy variables: own home with one parent and home of relatives. Living in his/her own home with two parents is the reference group for both variables. Seventy-eight percent of the youth reside in their own home with one parent, 10 percent live at home with both parents and 12 percent live with relatives.

The extent of past involvement with the juvenile justice system is measured by the number of prior referrals. While the juvenile court collects information on each referral, data representing the number of prior referrals is not reported. Data was gleaned using data from 2010 through 2016 to create this variable. Thus the count making-up prior referral could be underestimated. Still, on average the sample evidenced on average 1.83 referrals and variation on the variable is present ranging from no past referrals to 10 or more past referrals.

Referral method is categorized as either summons/other or custody. The summons/other category mainly reflects summons referrals (62%). In all, 65 percent of the sample was referred by a summons/other, while 35 percent were taken into custody. The number of charges, crime severity, and four indicators of crime type are also included as legal variables. The average number of charges is a little over 1; most offenses are classified as a misdemeanor (72%) and the most common crime type is a person offense (45%), followed by a property offense (34%), domestic (10%), and drugs (10%). The reference category for the four crime type variables is other.

*Dependent.* Decision-making is examined at five stages and each stage constitutes the dependent variables. *Detention* is defined as a youth held in an actual center/facility and excludes waiting room/holds and those waiting to be picked up. Seventeen percent of the sample was held at some point in secure detention. Since being detained has been found elsewhere to have an indirect influence on case outcomes through race, detention will also be considered as an independent variable. For example, Blacks have been found in prior research to be more likely to be detained than similarly situated Whites; in turn, being detained predicts placement at judicial disposition. If this is found, because Blacks were more likely to be detained in the first place, Blacks then will receive placement at judicial disposition through the effects of detention on decision making at this stage.

*Non-judicial* is differentiated by yes (receive some type of non-judicial outcome – diversion, fine, release, etc.) and no (moving forward in the court proceeding thus recipient of a judicial outcome). Sixty-nine percent of the sample received a non-judicial outcome; thus a significant percent of youth were diverted away from the system. Following the DOJ report, the non-judicial option is further delineated to examine decision making involving warning (no, yes), 79 percent, and diversion (no, yes), 5 percent. The reference group for both variables is dismissed. Formal stages are represented by *adjudication* and *judicial disposition*. Seventy-five percent of the youth that reach adjudication are adjudicated delinquent. Eighty-two percent received probation at judicial disposition whereas only 18 percent received an outcome involving out-of-home placement.

*Waiver*. In the DOJ report race was found to be a predictor as Blacks were more likely than similarly situated Whites to be waived. There was not enough variation among race (i.e., not enough Whites) in our sample for 2016 to run statistically sound or stable models for the decision to waive youth to adult court.

The possibility of collapsing waiver hearing data from 2012 through 2016 also failed to produce enough variation. In 2016, almost all youth receiving a notice of transfer and those actually waived were Black (only three were White).

- Table 3 next page (pgs. 16-17) -

**Table 3.** Distribution of Variables (N=4,779)

Variable	Value	N	%
<i>Independent</i>			
Race	0 – White	599	13
	1 – Black	4180	87
Gender	0 – Male	3532	74
	1 – Female	1247	26
Age (young to old)	Years	M = 15.14 SD = 1.81 Range = 7-18	
School status	0 – In school full time	4332	91
	1 – Else	447	9
Special education	0 – No	4324	90
	1 – Yes	455	10
Current living situation <sup>a</sup>	0 – Own home, two parents	472	10
	1 – Own home, one parent	3724	78
	2 – Home of relatives	583	12
Prior referrals (low to high)	Number	M = 1.83 SD = 2.54 Range = 0-10	
Referral method	0 – Summons/Other	3118	65
	1 – Custody	1661	35
# Charges (low to high)	Number	M = 1.16 SD = 0.54 Range = 1-10	
Crime severity	0 – Misdemeanor	3424	72
	1 – Felony	1355	28
Property <sup>b</sup>	0 – No	3159	66
	1 – Yes	1620	34
Person <sup>b</sup>	0 – No	2643	55
	1 – Yes	2136	45

**Table 3.** continued

Variable	Value	N	%
Domestic <sup>b</sup>	0 – No	4308	90
	1 – Yes	471	10
Drugs <sup>b</sup>	0 – No	4309	90
	1 – Yes	470	10
<i>Dependent</i>			
Detention <sup>c</sup>	0 – No	3985	83
	1 – Yes	794	17
Non-judicial	0 – Yes	3275	69
	1 – No	1504	31
Warn	0 – No	877	27
	1 – Yes	2398	73
Diversion	0 – No	3111	95
	1 – Yes	164	5
Adjudication	0 – No	378	25
	1 – Yes	1126	75
Judicial disposition	0 – Probation	922	82
	1 – Out of home placement	204	18

a: Variable will be treated as dummy variable; Own home, two parents reference group.

b: Reference category is Other offense, e.g. weapon possession, disorderly conduct.

c: Treated as both independent and dependent variable.

Note: Insufficient cases or variation to study waiver; all but three youth waived were Black.

### Analysis Procedures

As stated previously, this part of the assessment study used multivariate procedures in the form of logistic regression. This procedure allows for the estimation of the relative effects of each of the independent variables on a dependent variable. The  $\text{Exp}(B)$  will be also used to calculate the odds ratio to discuss the relative impact of an independent variable on a dependent variable. The first model will represent the full or additive equation, which allows for the examination of a direct or main effect of an independent variable on an outcome (e.g., race with detention). Next, separate models were estimated for Whites and Blacks to address the possibility of race interaction relationships with independent variables and in predicting a case outcome. For example, race and gender may act in combination to impact decision making. That is, it is possible that being a White female may result in different treatment than a Black female. The estimation of separate models along with tests involving Z-score comparisons allows for the examination of this possibility.

Past research has also shown that as youth move through the juvenile justice system the sample becomes more alike; thus, increasing the chance for error or selection bias. To correct for this possibility, a hazard rate was created and included in the model at judicial disposition. The results produced problems with multi-collinearity. Thus, the models were re-estimated without the hazard rate. Once the hazard rate was dropped from the analyses, statistical checks for multi-collinearity revealed acceptable levels of sharedness among the variables.

### Findings

*Detention.* Table 4 (pg. 19) presents the logistic regression result for estimating the decision to detain. In the present study, race is a statistically significant determinant of the detention outcome. **Black** youth have almost a **one and a half times** greater likelihood to be **held in detention** than a White once other factors are taken into consideration (Column 1).

In the last two assessments, there was the presence of an interaction effect involving race and being charged with a drug offense. Being White and charged with drug offending substantially decreased the chances of being detained. In this 6<sup>th</sup> assessment study, no such relationship was found. In fact, being involved with drug offending decreased the likelihood of detention and this effect did not differ by the race of the youth. Most of the legal and extralegal variables predict detention as one would expect. For example, crime severity is predictive of detention and has the strongest impact on the detention process.

**Overall, in 6 of 7 assessment studies, race has been found either individually or in combination with other factors, such as drug offense, to influence the decision to detain net considerations of other variables.** Recall that the DOJ study reported a strong relationship between race and detention in that Black youth were almost  $2\frac{3}{4}$  times more likely to be detained than similarly situated White youth. In the first assessment study by Leiber, race was not found to be a statistically significant predictor of the detention decision once all legal and extralegal factors were taken into account. In Leiber's second and third assessment studies, Black youth involved in a person offense increased the likelihood of being detained by over two times relative to all other youth net controlling for other factors, including domestic assault cases. In the fourth assessment study, Whites charged with a drug offense were less likely to be detained than comparable Blacks. In the fifth assessment study, being White and charged with drug

**Table 4.** Logistic Regression Results - Detention (N=4,779)

Variable	Full Model (1)	White (2)	Black (3)
Race	<b>.38**</b> (1.46)	-	-
Gender	<b>-.81**</b> (.45)	-.67 (.51)	<b>-.82**</b> (.44)
Age	<b>.15**</b> (1.16)	.11 (1.11)	<b>.15**</b> (1.17)
School status	<b>.60**</b> (1.82)	.57 (1.77)	<b>.62**</b> (1.85)
Special education	-.28 (.76)	.07 (1.08)	-.29 (.75)
Own home, one parent	.15 (1.16)	.50 (1.64)	.08 (1.09)
Home of relatives	<b>.43*</b> (1.54)	.81 (2.25)	.38 (1.46)
Prior referrals	<b>.22**</b> (1.24)	<b>.28**</b> (1.32)	<b>.22**</b> (1.24)
Custody	- _b	- _b	- _b
# Charges	<b>.38**</b> (1.46)	.22 (1.24)	<b>.40**</b> (1.49)
Crime severity	<b>2.73**</b> (15.26)	<b>2.35**</b> (10.49)	<b>2.76**</b> (15.86)
Property	<b>-1.66**</b> (.19)	<b>-2.20**</b> (.11)	<b>-1.60**</b> (.20)
Person	-.03 (.97)	-.40 (.67)	.03 (1.03)
Domestic	-.12 (.89)	-1.15 (.32)	-.02 (.98)
Drugs	<b>-1.67**</b> (.19)	<b>-2.99**</b> (.05)	<b>-1.44**</b> (.24)
-2 Log Likelihood	2849.47	256.12	2584.49

a: Regression coefficient; Exp(B) is presented in the parenthesis ( ).

b: Insufficient cases, variable dropped from analysis

Note: Coefficient comparisons failed to yield statistical significant differences across White and Black models for adjudication

\*\*p<.01, \*p<.05

offending decreased the chances of being detained by 67 percent. In this sixth assessment study, being Black increases the likelihood of being held in secure detention by almost one and a half times to a comparable White. In short, the evidence from the 6 assessment studies overwhelmingly indicate that **detention is a problematic stage in terms of DMC**.

*Non-judicial.* Table 5 (pgs. 21-22) presents the logistic regression results for predicting the decision to first use a non-judicial outcome versus further court processing, followed by models differentiating among non-judicial outcomes (warning, diversion versus release). Race is a positive statistically significant predictor of non-judicial decision-making (Column 1). Being **Black increased the odds of receiving a recommendation for further court proceedings (by 42%)** once controls were taken into account (Column 1).

If a non-judicial outcome is given, **race differences are evident in the decision to provide youth with a warning** (Column 4). Black youth are more likely to receive a warning than alike White youth. In addition, Whites involved in domestic dispute increases the odds of receiving a warning relative to other youth (Column 5). No race effect exists for the decision to divert (Column 7). Tests for race interaction relationships with other independent variables produced one significant effect at the  $p < .01$  level involving diversion. **Older Whites have an increased odds of not receiving a diversionary outcome** relative other youth (Column 8).

In the DOJ assessment study, Blacks were found to be less likely than similarly situated Whites to receive a warning and a fine, restitution or public service sanction. Or, in other words, Blacks were more likely than Whites to be referred for further juvenile court proceedings once controls were considered. The results from Leiber's first assessment study showed that this effect remained. Blacks were 1 ½ times more likely than Whites to be referred to a court hearing net controls. In the second and third assessment study by Leiber, race was not a statistical significant determinant of the decision to be referred further on at this stage. In the fourth assessment study and the fifth assessment study, the results paralleled those from the DOJ study and the first assessment study. In the current study, Blacks once again were found to be referred on at intake than similarly situated Whites. **Thus, in 5 of 7 assessment studies, race has had a direct relationship with the non-judicial decision.**

In the first assessment study by Leiber, differentiating among the non-judicial case options with warning as one variable and diversion as another variable with release as the reference group failed to produce evidence of race main or interaction effects with the dependent variables. Similarly no main or interaction relationships were evident in the second study. But similar to the findings reported by DOJ, results from the third and this fifth assessment study by Leiber showed that Black youth were less likely to participate in diversion than similar White youth. In this sixth assessment no such effect was discovered. In fact, Black youth were more likely to be warned than White youth.

**Table 5.** Logistic Regression Results - Non-Judicial

Variable	Non-Judicial			Warn			Diversion		
	Full (1)	White (2)	Black (3)	Full (4)	White (5)	Black (6)	Full (7)	White (8)	Black (9)
Race	<b>.35<sup>a*</sup></b> (1.42)	-	-	<b>.35<sup>**</sup></b> (1.42)	-	-	-.16 (.85)	-	-
Gender	<b>-.79<sup>**</sup></b> (.45)	<b>-1.55<sup>**</sup></b> (.21)	<b>-.74<sup>**</sup></b> (.48)	-.05 (.95)	-.30 (.74)	.01 (1.00)	<b>.44<sup>**</sup></b> (1.55)	.73 (2.06)	<b>.41<sup>*</sup></b> (1.50)
Age	.02 (1.02)	-.12 (.89)	.03 (1.03)	.03 (1.03)	<b>.16<sup>*</sup></b> (1.18)	.01 (1.01)	.02 (1.02)	<b>-.25<sup>*</sup></b> (.78)	.07 <sup>††</sup> (1.07)
School status	.12 (1.13)	.38 (1.46)	.05 (1.06)	-.01 (1.00)	-.03 (.97)	.02 (1.02)	-.66 (.52)	-.53 (.59)	-.74 (.48)
Special education	.19 (1.21)	<b>1.50<sup>*</sup></b> (4.47)	.16 <sup>†</sup> (1.17)	<b>.44<sup>**</sup></b> (1.56)	.83 (2.30)	<b>.41<sup>*</sup></b> (1.51)	-.84 (.43)	<sup>b</sup> -	-.68 (.51)
Own home, one parent	-.01 (.99)	-.07 (.93)	-.04 (.96)	<b>-.48<sup>**</sup></b> (.62)	-.56 (.57)	<b>-.52<sup>**</sup></b> (.60)	<b>1.18<sup>**</sup></b> (3.26)	1.33 (3.78)	<b>1.10<sup>*</sup></b> (3.01)
Home of relatives	.06 (1.06)	.90 (2.46)	-.02 (.98)	<b>-.52<sup>**</sup></b> (.60)	-.33 (.72)	<b>-.59<sup>**</sup></b> (.56)	<b>1.11<sup>*</sup></b> (3.02)	1.35 (3.84)	1.00 (2.72)
Prior referrals	<b>.40<sup>**</sup></b> (1.49)	<b>.70<sup>**</sup></b> (2.01)	<b>.38<sup>**</sup></b> (1.47)	<b>-.13<sup>**</sup></b> (.88)	-.16 (.86)	<b>-.13<sup>**</sup></b> (.88)	<b>-.49<sup>**</sup></b> (.61)	-.24 (.79)	<b>-.53<sup>**</sup></b> (.59)
Custody	<b>.74<sup>**</sup></b> (2.10)	<b>1.16<sup>**</sup></b> (3.19)	<b>.69<sup>**</sup></b> (2.00)	<b>-1.52<sup>**</sup></b> (.22)	<b>-2.33<sup>**</sup></b> (.10)	<b>-1.44<sup>**</sup></b> (.24)	<b>-.84<sup>**</sup></b> (.43)	-1.02 (.36)	<b>-.88<sup>**</sup></b> (.42)
# Charges	<b>.28<sup>**</sup></b> (1.32)	.49 (1.63)	<b>.23<sup>*</sup></b> (1.26)	.11 (1.12)	-.01 (1.00)	.11 (1.12)	.24 (1.27)	-.02 (.98)	.30 (1.35)
Crime severity	<b>1.96<sup>**</sup></b> (7.09)	<b>1.92<sup>**</sup></b> (6.79)	<b>1.97<sup>**</sup></b> (7.14)	-.19 (.83)	-.01 (.99)	-.23 (.79)	.16 (1.18)	-.04 (.97)	.23 (1.26)

Table 5. continued

Variable	Non-Judicial			Warn			Diversion		
	Full (1)	White (2)	Black (3)	Full (4)	White (5)	Black (6)	Full (7)	White (8)	Black (9)
Property	.30 (1.36)	.65 (1.92)	.27 (1.31)	<b>.29*</b> (1.34)	.30 (1.35)	<b>.31*</b> (1.36)	<b>1.13**</b> (3.09)	.93 (2.54)	<b>1.14**</b> (3.14)
Person	<b>.67**</b> (1.95)	<b>1.47*</b> (4.37)	<b>.57**</b> (1.78)	.16 (1.17)	.21 (1.23)	.14 (1.15)	<b>1.02*</b> (2.79)	1.24 (3.46)	<b>.99*</b> (2.70)
Domestic	<b>-.54*</b> (.58)	-3.32 (.04)	<b>-.49*</b> (.61)	.04 (1.04)	<b>1.25*</b> (3.50)	-.10 <sup>†</sup> (.91)	_b -	_b -	_b -
Drugs	.17 (1.18)	.28 (1.32)	.19 (1.21)	<b>.39*</b> (1.48)	.52 (1.69)	.31 (1.36)	<b>1.48**</b> (4.41)	1.78 (5.92)	1.35 (3.87)
Detention	<b>2.27**</b> (9.64)	<b>1.67**</b> (5.31)	<b>2.34**</b> (10.37)	-.41 (.66)	-1.42 (.24)	-.23 (.79)	_b -	_b -	_b -
-2 Log Likelihood	3146.94	263.29	2855.06	3423.49	497.06	2909.30	1199.24	225.92	964.54

a: Regression coefficient; Exp(B) is presented in the parenthesis ( )

b: Insufficient cases, variables dropped from analysis

\*\* p<.01, \*p<.05

†† p<.01, † p<.05, Coefficient comparisons yield statistical significance.

*Adjudication.* Table 6 (pg. 24) provides the logistic regression results for understanding adjudication decision-making. In the present assessment study, **race once again does not have a statistical direct effect on adjudication outcomes** (Column 1). Further, tests involving coefficient comparisons **also failed to produce evidence of race differences in the relative effects of the independent variables with adjudication.**

It is important to note that detention has a strong impact on the adjudication decision once all factors are taken into account. Being detained decreases the likelihood of an adjudication of delinquency (Column 1). For Whites, the effect of detention is inverse but not statistically significant (Column 2). For Blacks, subjected to detention decreases (inverse) the odds of being adjudicated by .44 (Column 3). Recall that earlier it was reported that being Black was a determinant of detention. **Thus, an indirect relationship exists between being Black, being detained, and a decreased likelihood of being adjudicated a delinquent.**

Recall that the DOJ study did not report adjudication decision-making as a problem area. In the first assessment study by Leiber, race by itself was not a significant predictor once controls were considered. Comparisons of coefficients revealed the existence of a race interaction relationship with the number of charges and the odds of being adjudicated. For Whites, the number of charges had an inverse or negative relationship with the dependent variable and was not statistically significant. For Blacks, the relationship was positive and statistically significant. Black youth with a greater number of charges increased the likelihood of adjudication by 2.15 relative to other youth net considerations of legal severity and other variables. In the second assessment study, race once again did not have a direct effect on the dependent variable. But, two race interaction relationships were found. Black females and White youth charged with a person offense were found to have an increased likelihood of adjudication. In the fourth and fifth assessment study, no direct race effects of statistical significance were discovered. But, a positive indirect effect with race and detention was found with the adjudication decision (increased the chances of being adjudicated). In the current study, **an indirect race/detention relationship with the adjudication process** was once again reported but this time the effect decreased the odds of being adjudicated for Blacks detained.

*Judicial Disposition.* In Column 4 of Table 6, the logistic regression results for predicting judicial disposition outcomes are presented. In the present assessment study, and consistent with the previous four assessment studies, **race is not a statistically significant determinant of judicial decision-making.** Tests for the presence of race combination relationships with independent variables also failed to show the existence of such effects with the dependent variable. Detention, however, has an effect on disposition outcomes. This relationship is positive suggesting that **Blacks who were detained are receiving an out-of-home placement.**

Because of the instability of the models for Whites, separate regression runs were not conducted for each racial group. **Only 8 Whites received a disposition of out-of-home placement compared to 198 Blacks.**

In the first assessment study by Leiber, race had no main relationship with the dependent variable. However, two race interaction relationships were reported. Older Whites had a reduced probability of a receiving an out-of-home placement than older Blacks who had an increased

**Table 6.** Logistic Regression Results - Adjudication, Judicial Disposition

Variable	Adjudication			Judicial Disposition
	Full (1)	White (2)	Black (3)	Full (4)
Race	.09 <sup>a</sup> (1.09)	-	-	.35 (1.41)
Gender	.43 (1.54)	- <sup>b</sup>	.30 (1.35)	<b>-1.30**</b> (.27)
Age	<b>-.56**</b> (.57)	<b>-.43*</b> (.65)	<b>-.57**</b> (.56)	.07 (1.08)
School status	.10 (1.11)	-.42 (.66)	.18 (1.20)	.29 (1.33)
Special education	<b>.67**</b> (1.96)	1.45 (4.27)	<b>.66**</b> (1.94)	<b>-.67*</b> (.51)
Own home, one parent	.32 (1.38)	.06 (1.06)	.37 (1.45)	<b>-.71*</b> (.49)
Home of relatives	<b>.57*</b> (1.76)	-.57 (.57)	<b>.74**</b> (2.10)	-.13 (.88)
Prior referrals	<b>-.06**</b> (.95)	.07 (1.07)	<b>-.06**</b> (.94)	<b>.26**</b> (1.30)
Custody	<b>.75**</b> (2.12)	.72 (2.05)	<b>.77**</b> (2.16)	-.23 (.79)
# Charges	<b>-.18*</b> (.84)	.21 (1.24)	<b>-.20*</b> (.82)	.09 (1.09)
Crime severity	<b>-.67**</b> (.51)	.20 (1.22)	<b>-.78**</b> (.46)	.19 (1.21)
Property	-.02 (.98)	.68 (1.98)	-.06 (.95)	-.56 (.57)
Person	<b>-.78**</b> (.46)	-.65 (.52)	<b>-.78**</b> (.46)	-.54 (.58)
Domestic	-.43 (.65)	- <sup>b</sup>	-.34 (.71)	-1.25 (.29)
Drugs	.19 (1.20)	.69 (2.00)	.08 (1.08)	<b>-2.02**</b> (.13)
Detention	<b>-.64**</b> (.53)	-1.17 (.31)	<b>-.58**</b> (.56)	<b>1.35**</b> (3.86)
<b>-2 Log Likelihood</b>	<b>1444.50</b>	<b>102.61</b>	<b>1328.27</b>	<b>850.71</b>

a: Regression coefficient; Exp(B) is presented in the parenthesis ( ).

b: Insufficient cases, variable dropped from analysis

Note: Coefficient comparisons failed to yield statistical significant differences across White and Black models for adjudication; not enough variation to estimate separate race models for judicial disposition

\*\*p<.01, \*p<.05

odds of such an outcome. Being detained had also significant positive relationship with the dependent variable (increased odds of being taken out of the home). This effect was conditioned by race. Blacks held in detention had an increased likelihood of receiving the more severe judicial outcomes than similarly situated White youth once controls were taken into account. In the second assessment study, once again race was not a statistically significant determinant of judicial disposition decision making. Differentiating the results by race, tests comparing coefficients produced two statistically significant interaction relationships. As in the first assessment study, older Whites had decreased odds of receiving an out-of-home placement than other youth, including Blacks. White youth from a single-parent home were found to be less likely to receive the more severe judicial disposition outcome than similarly situated Black youth. These relationships were not found in neither of the last three assessment studies. In the current research, an indirect inverse relationship appears to exist between being Black, being detained and receiving the harsher outcome of out-of-home placement at judicial disposition.

Note: As pointed out earlier, logistic regression was not used to predict decision making at the transfer hearing to decide whether to waive a youth to adult court. Recall that there was a lack of variability in that there were too few Whites to conduct the analysis over the last five years. That is, **almost all youth receiving notice of transfer and actually waived are Black.**

### *Summary and Conclusions*

Using data from the state of Tennessee for the years 2005 through 2009, and to some extent 2010, the DOJ study found and reported the presence of DMC at almost every stage. In subsequent analysis using data from Shelby County, the DOJ findings letter reported that the presence of DMC was not accounted for solely by legal and extralegal considerations, especially at detention, the use of non-judicial outcomes in the form of warning and diversion and at the transfer to adult court hearing.

Since the DOJ study, Leiber has conducted six assessment studies, including the current research. For the most part, Leiber has reported similar findings as those detailed in the DOJ study. In his first assessment study, Leiber used data given by the Memphis/Shelby County Juvenile Court and cleaned by Leiber for the time-frame ranging from July 1, 2012 through June 30, 2013, and reported somewhat similar results to DOJ. In the second assessment study covering court decision making for the entire year 2013 by Leiber, several themes continued to exist. In a 3<sup>rd</sup> assessment study using data from July 1, 2013 through June 30, 2014 similar patterns from the previous two assessments and the DOJ study were evident. The fourth and fifth assessment studies by Leiber examined data for delinquent referrals for the year 2014 and the year 2015, respectively.

The current study covered cases for the year 2016. And once again, a continuation of Black overrepresentation and Black effects with decision-making outcomes exist. **The most problematic areas continue to be referral, secure detention, and intake/petition or the non-judicial stage in terms of overrepresentation and equity.**

Recall that a summary of these studies and conclusions are presented on pages 1-4 and discussed throughout this report. Additional information concerning recommendations and specifically

what the Shelby Court has/has not undertaken can be found in the 9<sup>th</sup> Equal Protection Compliance Report.

Below are the main findings/themes from all six assessment studies and recommendations:

- **Referrals** by the police/schools to the juvenile court have declined but Black youth continue to be overrepresented.

Strategies such as SHAPE, the expanded use of Porter Leath, the use of beds at Youth Villages, discussions/training of the Memphis Police Department, including those in higher administration, and the use of expedite evaluation and review, and greater use of summons as a means to avoid juvenile court contact, have been utilized by the Court. These initiatives seem to be good. But, each needs to be evaluated to assess if they are producing the intended results and whether these should be used in greater frequency to reduce the number of youth, especially Black youth, referred to juvenile court.

- Efforts of reform at **detention** appear to be taking place, to some degree, as evident in the decline in the relative numbers but the RRI's and the findings from the multivariate analyses continue to show no change in the overrepresentation of Blacks relative to Whites, AND being Black continues to predict the use of secure detention. The relationship of race with detention is sometimes evident in the form of a direct effect and at other times in the form of interaction relationship with a number of independent variables, such as being charged with a person or drug offense. Race also appears to have an indirect relationship with adjudication and judicial disposition decision-making where the effects sometime yield more severe and/or lenient outcomes at adjudication and at judicial disposition.

The continued finding that race matters at detention once again begs the question as to what effect the Summons program (LEAP) and DAT are having on the referral of Black youth to detention. Enough time has passed for implementation of these efforts to have an impact but the overall results show that change in DMC and the more equitable treatment of Black youth is not occurring. The Juvenile Court has attempted to revise the DAT (in particular with a focus on the history of prior offenses, certainty of appearance, and threat to danger to self/others). The revised DAT 3 was implemented February 1, 2017. For DMC and achieving equitable treatment for all youth at detention, the DAT 3 needs to be closely examined, evaluated, and revised in a timely manner. Likewise, the implementation and possible greater use of the Expedite review, the Summons Review Team (SRT) initiative, and electronic monitoring may aid in reducing the number of Black youth referred and placed in secure detention. The STR full implementation did not occur until the fall of 2016 and so the full possible impact on race and case outcomes still needs to be determined.

- Race relationships continue to exist at **non-judicial decision-making**. Over time, this relationship has almost been as evident as at referral and detention. Similar to referral and secure detention, there needs to be an inquiry as to why these race effects are continuing.

As stated on numerous occasions, the Court needs to address the following questions: (1) are the structured decision-making tools being administered properly (e.g., overrides)? And (2) are the tools and the criteria comprising the tools used to structure decision-making reducing DMC and ensuring decision-making that results in equal protection? The findings from the six assessment studies, for the most part, reveal that the tools are not bringing about the needed change in decision-making.

The Court has been reviewing the Graduated Response Grid. There has been a particular focus on: (1) if the decision making process by each PO reaches the same or similar conclusion and (2) whether or not the supervisor and/or DA moves cases from non-judicial to petition (court). A revised Response Grid was implemented in November of 2016. An RFP has been issued and posted by Shelby County Purchasing in April of 2017, to help in further evaluating the Revised Graduated Response Grid. While this is good, too much time elapsed from the meeting in July, 2016 where the Graduated Response Grid was discussed as a contributing factor to DMC to the posting of the RFP in April of 2017. The Court is also implementing a parent orientation to discuss the importance of not rejecting an offer to participate in diversion as well as possible greater use of the By-Pass program.

- Although the overall number of youth reaching the waiver stage via notice have declined, most youth that receive a notice and waived are Black. While much of this relationship rests with the prosecutor, continued dialogue must occur between the interested parties to address this issue.

Overall, the Court has shown awareness and now ownership of the DMC issue it is facing. **But more aggressive** discussions and action in the form of strategies, policies, and implementation need to take place before the reported results may be altered. In short, despite efforts on the part of the Court to make change, little has changed in reducing DMC and ensuring greater equality for Black youth in Shelby County/Memphis Juvenile Court. This is especially true with regards to referrals, detention, and non-judicial decision-making. Central to change will be securing a greater commitment from the police, and **aggressively evaluating** the revised DAT 3 and the revised Graduated Response Grid.