

TENNESSEE COMMISSION ON CHILDREN AND YOUTH

Study of  
Disproportionate  
Minority Contact (DMC)  
in the Tennessee Juvenile  
Justice System

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# **Study of Disproportionate Minority Contact (DMC) in the Tennessee Juvenile Justice System**

**By  
Tennessee Commission on Children and Youth**

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## **Disproportionate Minority Contact (DMC) in the Tennessee Juvenile Justice System**

Pursuant to a federal mandate as part of the Juvenile Justice and Delinquency Prevention Act, this research project to assess the causes of disproportionate contact and confinement of minority youth (DMC) in the juvenile justice system in Tennessee was sponsored and prepared by the Tennessee Commission on Children and Youth. When the *Assessment of Disproportionate Minority Confinement in Tennessee's Juvenile Justice System* was prepared in 2003, the report primarily focused on disproportionate minority confinement. Amendments to the Juvenile Justice and Delinquency Prevention Act in 2002 broadened the scope of DMC efforts to include disproportionate minority "contact," focusing on youth who come into contact with juvenile courts in addition to those who are securely contained. Accordingly, this research project addresses disproportionate minority contact.

This study addresses some of the ways children who are of racial minority are disproportionately involved in the juvenile justice system in Tennessee. It also identifies some of the factors that contribute to disproportionality. This study also identifies some of the progress Tennessee has made in addressing DMC related factors. Not only does this study identify DMC issues, it also provides recommended steps to further Tennessee's efforts to reduce DMC in Tennessee.

Research for this project required the collection and analysis of data from various sources. The quantitative analysis portion of this project included reviewing data from the Tennessee Department of Correction, Administrative Office of the Courts, Child and Adolescent Needs and Strengths Pilot Study, Department of Children's Services (DCS), Children's Program Outcome Review Team Quality Service Reviews and other state-related aggregate data. The

qualitative analysis portion of this project required collecting data from juvenile justice personnel, law enforcement personnel, school personnel, legal professionals and the community. The qualitative data were collected through electronic surveys.

This research project was partially guided by the findings in the *Assessment of Disproportionate Minority Confinement in Tennessee's Juvenile Justice System* (2003). In general, the most pertinent are as follows:

- Unemployment appeared to be positively correlated to DMC (2003, pg. vii); and
- Parenthood was positively correlated with DMC (2003, pg viii).

The 2003 study quantitative and qualitative research yielded dramatically different results when addressing the use of objective criteria by the juvenile justice system in Tennessee and the role race played in the decisions in that system. The quantitative research suggested race was a significant factor throughout the juvenile justice decision points. Due to the limited scope of the research, the qualitative research did not address many of the decision points in the juvenile justice system. However, the qualitative research suggested race was not a significant factor with the juvenile court judicial officer when determining “whether or not to detain juveniles pretrial; commit juveniles to DCS custody for delinquency; or to transfer juveniles to adult court” (ix).

This research project not only builds upon the findings of the 2003 Assessment, it also expands upon the geographic scope of the 2003 Assessment. The 2003 Assessment included research from the following counties in Tennessee: Blount, Davidson, Hamilton, Knox, Madison, Shelby and Washington. This research project took a statewide view of DMC in Tennessee.

Minority youth are overrepresented at all stages of the juvenile justice process. This is especially evident in secure confinement facilities, with the degree of over-representation being lowest at the point of arrest and increasing at each subsequent stage.

- Based on data from the Tennessee Department of Health as a population projection for 2011, in Tennessee, 21 percent of the population between the ages of 10 through 17 was African-American. A total 27 percent of the population between the ages of 10 through 17 was a racial minority, including African Americans.
- In 2011, in Tennessee, 26 percent of the cases petitioned to Juvenile Court involved African-American children, 65 percent of the cases involved white children and 9 percent of the cases involved other minority children. *It is important to note that cases petitioned to Juvenile Court include dependency/neglect, termination of parental rights and unruly cases.*
- In 2011, 48 percent of the juveniles diverted from Juvenile Court were African-American; 49 percent were White; and 3 percent were other minorities.
- In Tennessee, for 2011, African-Americans were involved in 39 percent of the delinquency cases. All racial minorities were involved in 43 percent of the delinquent cases.
- In 2011, 49 percent of juveniles in secure juvenile correctional facilities were African-American; 47 percent were White; and 4 percent were other minorities. A youth detained in a secure facility prior to adjudication is more likely to be subsequently incarcerated. Indeed, pre-adjudication detention is one of the best predictors of commitment to a state juvenile correctional facility.

- In 2011, for Tennessee, 48 percent of juveniles in secure detention centers following adjudication and disposition of a delinquent case were African-American; 48 percent were White; and 4 percent were other minorities. In Tennessee, African-American juveniles were disproportionately confined in secure juvenile correctional facilities.
- In 2011, 25 percent of the juveniles in cases involving probation were African-American; 71 percent were White and 4 percent were other minorities.
- Seventy-two percent of juveniles transferred to adult court in Tennessee in 2011 were African-American; 24 percent were white; and 4 percent were other racial minorities.

In the face of these alarming numbers, we do not want to lose sight of the fact that Tennessee has made efforts to address the DMC issue both before and since the 2003 Assessment.

The Department of Mental Health and Mental Retardation, now the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS), has further engaged in the juvenile justice system. The name of the Department of Mental Health and Mental Retardation was changed to the Tennessee Department of Mental Health and Substance Abuse Services, reflecting a change in scope and vision, potentially to helping many adolescents, especially including those involved with the juvenile justice system who have co-occurring mental health and substance abuse treatment needs. Moreover, TDMHSAS, in partnership with the other Tennessee juvenile justice stakeholders, applied for and received federal funding for the Tennessee Integrated Court Screening and Referral Project (TICSRP). TICSRP provides juvenile courts with a Child and Adolescent Needs and Strengths (CANS) based instrument to assist the courts in addressing the mental health needs of youth with non-violent charges who come in contact with the juvenile justice system.

In 2008, the Tennessee General Assembly established the Council on Children's Mental Health (CCMH) to bring together stakeholders to plan for implementation of a system of care for children's mental health in Tennessee. CCMH has been a venue for working on a range of issues that impact the juvenile justice system.

Based on concerns from the 2003 Assessment, there have been substantial changes regarding how mental health evaluations occur through a process known as a Juvenile Court Commitment Order (JCCO). Now a substantially greater number of these evaluations are occurring in environments more friendly to the children at a considerable cost savings for the state.

When mental health needs are addressed in the school setting, children are less likely to be moved from the educational to the juvenile justice systems, a process that often disproportionately impacts minority students. Since 2003, Tennessee has implemented at least three good examples of school-based mental health services.

Tennessee has also made additional efforts to foster greater collaboration between the education system and the juvenile justice system. For example, the Department of Education Office of Coordinated School Health received an 18-month federal grant to develop school policy, protocols, training and linkages with community mental health providers regarding prevention, identification, referral and follow-up of students needing mental health services. Another example is the School House Adjustment Program Enterprise (S.H.A.P.E.) in the Memphis City Schools (MCS). The program has had demonstrated success in reducing the number of referrals from the Memphis City Schools to the Shelby County Juvenile Court, essentially interrupting the "school to prison pipeline" for many minority children.

Due to the impact truancy has as a precursor to juvenile justice involvement, strategies have been implemented in Memphis and Nashville, two cities with substantial minority populations. Among other activities, both cities established truancy centers designed to keep children in school where they are more likely to be engaged in productive activities.

Pursuant to legislative directive in 2005, the Tennessee Commission on Children and Youth convened a stakeholders group to develop a detention assessment tool. In general, the purpose of such a tool is to provide guidance to determine if a delinquent youth could be safely released back into the community. Staff from the Memphis/Shelby County Juvenile Court subsequently field tested the developed instrument and made appropriate adjustments. Use of the revised detention assessment tool has substantially reduced the number of children in detention in Memphis/Shelby County, a county with an extensive minority population.

Appropriate training and accurate data are of critical importance to address DMC issues. Since the 2003 Assessment, additional cultural competency training has been made available through various people, agencies and departments, such as Juvenile Court Judge and State DMC Task Force Co-Chair Dwight Stokes, TCCY and the Tennessee Administrative Office of the Courts (AOC). Staff at the AOC also provided technical assistance to juvenile court staff to assist in the submission of accurate data.

TCCY has been engaged in a variety of strategies to address DMC and continues to work toward reducing the over-representation of minority children through delinquency prevention and systems improvement strategies. These efforts of TCCY and other noteworthy efforts and activities are discussed later in this report.

Although Tennessee has made significant strides in implementing strategies to reduce disproportionality in the juvenile justice system in Tennessee, much work remains to be done.

Based on this DMC Study process, the preparers of this report and other stakeholders developed recommendations to address DMC in Tennessee's juvenile justice system. The following recommendations are discussed in more detail later in this report:

- Ongoing and additional cultural sensitivity/competency training should be provided for all relevant participants in the juvenile justice process.
- There is a need to ensure due process and effective legal representation for youth involved with the juvenile justice system through training and other means.
- Law enforcement officers should receive additional training regarding the impact of juvenile justice system involvement on children and should also be provided with additional strategies and resources to minimize juvenile court involvement and, especially, to avoid unnecessary juvenile detention.
- Department of Education (DOE) and Local Education Agency (LEA) engagement in the juvenile justice system to address DMC should continue and increase.
- Sufficient mental health and substance abuse prevention and treatment services for children and their parents should be available to address underlying factors related to DMC.
- Strategies to strengthen parenting skills and increase parental involvement in the lives of their children are needed to improve outcomes and reduce DMC.
- Improved coordination and information sharing among all relevant parties in the juvenile justice system facilitates the identification of underlying issues and the provision of appropriate services for improved outcomes.
- State and Local DMC Task Forces and other groups focused on addressing DMC need to be strengthened and expanded into all areas in Tennessee.

- Improved understanding of the realities of juvenile delinquency and the effect individual stakeholders can have in improving outcomes for youth could improve societal and system responses and efforts to reduce DMC.

The literature clearly suggests DMC is an ongoing, multi-faceted national issue. In fact, research suggests disparate treatment of minorities in the educational system contributes to DMC in the juvenile justice system. Factors that contribute to DMC are often present before the child becomes a participant in the juvenile justice system. Accordingly, within the last ten years or so, early intervention and prevention programs created to address juvenile delinquency and DMC issues have become more widespread. Researchers also recognize the need for adequate mental health services for youth to reduce juvenile delinquency and DMC. Unfortunately, mental health services are also often offered in a disparate manner to minority youth. The failure to provide adequate mental health services also has an impact on a child's ability to perform in school, which can lead to behavior problems or dropping out of school, which in turn can lead to juvenile justice issues in a vicious cycle.



## Literature Review

During the 1980s and 1990s, the juvenile justice system shifted from a model based on treatment and rehabilitation to one focused on punishment. This shift was largely due to the public perception that serious juvenile crime was on the rise and the view that the juvenile justice system did not treat offenders severely enough. During this time, many states passed legislation shifting discretion from judges to prosecutors. Unlike the traditional approach of focusing on the offender and not the offense itself, this approach and the legislation that came with it took away the court's ability to consider the circumstances surrounding the juvenile's behavior. In the juvenile justice system, the goals of treatment and rehabilitation were replaced with those of deterrence, incapacitation and punishment, much like those of the adult criminal court system (Merlo & Benekos, 2003).

Pope and Feyerherm (1992) suggested the discretion of judges in implementing juvenile transfer provisions and the initiation of specific legislation for the transfer process particularly affected minority youth. They reviewed some of the research literature and found that minorities, especially African American youth, were overrepresented at most stages of the juvenile justice system.

The deeper minority youth progress into the juvenile justice system, the higher the overrepresentation rate. This starts with a disproportionate number of referrals, leading to an increased disproportionality rate of adjudications and finally an even higher rate of transfers to adult court. In reflection of this, Huizinga et al. (2007) developed a report, *Disproportionate Minority Contact in the Juvenile Justice System: A Study of Differential Minority Arrest/Referral to Court in Three Cities*. After looking at studies from three cities: Pittsburg, Pennsylvania; Rochester, New York; and Seattle, Washington, their report produced three main factors. First,

in all the studies there was an indication of disproportionality for minority youth in the juvenile justice system. The number of referrals to juvenile court was substantially higher for minority youth than White youth. Next, the data suggested that minority over-representation could not totally be attributed to the height of criminal activity of any particular racial faction of youth. Finally, when other risk aspects were included to determine the effect of disproportionate minority contact (DMC) on the juvenile justice system, the results are mixed for the three cities; however, race/ethnicity is still an important factor for youth referred to juvenile court.

### **Schools and Discipline**

Much has been written about the discrepancies in school disciplinary practices towards minority and non-minority groups. Gregory, Noguera and Skiba (2010) focused on the classroom, providing general information about the achievement gap and the “discipline gap” between African American, Latino and American Indian children and White children. Explanations were offered for differences in discipline among races and the consequential disparities in achievement. Recommendations were also made for the complex measurements of disproportionate representation of minority students.

What are these explanations? How do we explain what happens to lead to discriminatory disciplinary actions? Christle, Jolivette and Nelson offer the concept of a “school to prison pipeline,” which identifies school risk factors and protective measures that potentially contribute to the disproportionate minority contact within schools and confinement. These authors observe school characteristics that contribute to future delinquency, such as academic failure and suspension at all levels of schooling (2005). Similarly, Yeide and Cobrin showed that truancy is a prominent risk factor for criminal behavior (2009). This exploratory study helped explain variables within the schools that either intensify the risks for criminal behavior or work against

them. Birchmeier, Nicholson-Crotty, and Valentine (2009) explored how decisions made in schools concerning discipline can help explain the high rates of DMC (contact more so than confinement) with the juvenile courts. They showed that, while empirical research on DMC in schools has usually been developed and presented separately from, or parallel to, DMC in the justice system, researchers have finally started to connect the two institutions due to their similar results (Birchmeier et al., 2009).

To this point, Hirschfield addressed criminalization of discipline in schools, going so far as to compare public schools to criminal justice institutions (2008). By examining existing literature, Hirschfield confirmed that criminalizing behavior of minorities in school and referrals to the juvenile court for these offenses contributes greatly to the problem of disproportionate contact or confinement. Like Gregory et al., Christle and Hirschfield also analyzed explanations for the juvenile court's growing role in school disciplinary procedures. Theriot also wrote on the criminalization of student behavior, focusing specifically on the presence of school resource officers and school-based arrests (2009). He argued that, rather than referring "problem" children to the juvenile justice system, behavior issues could be better handled at school, thereby reducing the need for police presence (school resource officers) in the school.

Much of the research available on school discipline focuses on the teacher's interactions with the student. Bradshaw, Mitchell, O'Brennan and Leaf observed factors in the classroom and of the student and teacher, including ethnicity, to examine how they contribute to the over-representation of minority students in office disciplinary referrals (2010). Gregory and Thompson published a study on African-American high school students and how their behavior may change across classrooms (2010). There were two goals in this study: 1) to determine variability in teachers' perceptions of defiance and cooperation amongst students, and 2) to find

whether students' perceptions of teachers as unfair were linked to a higher risk for disciplinary office referrals. Gregory and Thompson reached the same conclusion as previous research: teachers' perception of African American students and student perception of teachers affect specific discipline problems and resulting disciplinary action. A similar study by Hinojosa also found school suspensions differed by race and student- and school-based variables (2008). By examining defiance versus cooperation in the classroom, Hinojosa identified a link between the frequency of discipline for defiance and the over-representation of African American students in discipline referrals. Furthermore, the study examined the qualities of teachers as a predictor for student trust in authority.

In addition to teacher interaction, factors such as school dropout rate, social stigma of being arrested and personal factors have been found to influence high rates of arrests for young minority boys. Hirschfield carried out an exploratory study that examined the impact of a youth's interaction with the juvenile justice system on his self conceptions, as well as responses from family, peers and teachers (2008). Hirschfield also discussed delinquent labeling theory, which suggests that once a youth becomes involved in the juvenile justice system, social stigma emerges and a negative reputation associated with that youth materializes. He found that involvement in the juvenile courts increased the probability of delinquency for youth in their future; however, labeling theory was not an adequate explanation for the social effect of criminal behavior in urban communities (2009).

Available research on school discipline and its effects can be very useful for schools and the juvenile justice system in reducing disproportionate minority confinement/contact. Authorities and other officials in the juvenile justice system will be made more aware of contributors such as the frequency of referring students before involving the court system.

Knowledge and training on teacher perceptions, student beliefs and consequent behavior can assist in effective disciplinary strategies and classroom management. School programs can learn what works, what does not, and why, thereby decreasing the need for police involvement.

### **Prevention Programs in Schools**

Currently, no single model dominates in juvenile justice. While some still believe in the punitive approach adopted in the 1980s and 1990s, others have begun to consider research-based initiatives focusing on prevention and intervention. Merlo and Benekos (2003) noted that “early intervention, prevention, and parenting programs are becoming more widespread, [and] [t]here is evidence that the public supports these efforts and they are becoming successful” (p. 285).

The emergence of research-based initiatives has produced a range of youth services from early intervention and prevention to offender reentry. A number of intermediate sanctions exist along this continuum of sanctions and programs. The Office of Juvenile Justice and Delinquency Prevention’s (OJJDP) Model Programs Guide defines immediate sanctions as diversion mechanisms that hold youth accountable for their actions by sanctioning behavior and in some cases securing services, but at the same time generally avoiding formal court processing (OJJDP, 2010). These types of sanctions can manifest themselves in afterschool/recreation programs, alcohol and drug therapy education, cognitive behavioral treatment, conflict resolution/interpersonal skills programs, family therapy, parent training and teen/youth courts. Immediate sanctions are based on the principles of restorative justice. The principles of restorative justice hold that delinquency and crime damages not only the people directly affected, but also communities and the relationships among the people in those communities (OVC, 2000). Programs based on restorative justice principles aim to convey to the offender that he or she is responsible for repairing the damage caused to his or her victim(s) and the victimized

community. The victim(s) and the community play an important role in holding the offender accountable for his or her actions and ensuring that the terms of any agreement between offender, victim(s) and community are met (OVC, 2000).

As early intervention and prevention programs have become more widespread over the past decade, so have diversion programs. There is a growing realization that detention and incarceration are not only especially expensive but they are also largely ineffective at preventing future criminal behavior. This skepticism, fueled by financial pressures to maximize the use of limited resources, has encouraged some jurisdictions to pursue a variety of alternative juvenile early intervention and diversion programs. Early intervention programs emphasize risk factors related to delinquency. The Shelby County District Attorney General's Office reported that one-quarter of all juvenile crime in Shelby County in 2005-06 occurred during school hours but away from school property. In short, a significant portion of juvenile delinquency was being committed by truant juveniles. In 2007 in Tennessee, only 21 percent of the population under the age of 18 was African American yet 80 percent of the juveniles in the state's secure detention centers were African American (TCCY, 2010).

High rates of violence during the 1990s and the responses of elected officials and the public have led to the realization that measures to get "tougher on crime" have been outpaced by strategies favoring approaches that are "smarter on crime." In the last decade, this movement began to gain traction with increasing pressures to maximize the use of limited economic resources. The key principles of this new criminal justice emphasize: 1) a deliberate commitment to research and data-driven approaches to development, implementation and assessment of interventions, 2) an emphasis on local problems and local solutions, 3) clearly defined conceptual models explaining problems and appropriate responses and 4) integration and

collaboration across agencies, functions and roles where relative autonomy had previously been standard practice (Klofas, Kroovand, Hipple, & McGarrell, 2010). This new criminal justice movement has led to unprecedented collaboration and a growing realization that effective interventions can not and should not be proposed in isolation.

Two intervention/prevention initiatives in Memphis were created with the goal of reducing disproportionate minority contact among juveniles, focusing specifically on youth enrolled in Memphis City Schools. The District Attorney General's Truancy Reduction Project seeks to curb the problem of truancy, as it has been shown to be a risk factor for future delinquent behavior and can be linked to substance abuse and gang activity among other criminal acts (Yeide & Kobrin, 2009). Collected data revealed that 25 percent of juvenile crime in Memphis occurred during school hours away from school campuses, presumably at the hands of truant, expelled or drop-out students. The goal of the District Attorney's Truancy Reduction Project is to identify at-risk truant students and to offer an early intervention strategy that affirms parental responsibility, provides academic support and encouragement to students, and strengthens the relationship between local law enforcement and the school system in an effort to make the community safe. Similarly, the School House Adjustment Program Enterprise (S.H.A.P.E.) was developed in 2008 for those students who committed a minor offense on school property and faced potential charges of simple assault with no serious injuries, disorderly conduct or criminal trespass. This collaboration among the Memphis City Schools, the Memphis Police Department, the Shelby County Mayor's Office, the Public Defender's Office and the Shelby County Juvenile Court diverts youth from direct court contact and instead implements curriculum and program guidelines in order to reduce the disproportionately high number of

minority juveniles in the juvenile justice system. Together, these interventions have shown marked improvement in reducing truancy, law enforcement transfers, and court contact.

## **Mental Health**

However, in-school programs are not always the best solution, as delinquent acts may be rooted in deeper causes. Juvenile justice facilities have become an unfit placement for many youth with mental health problems. Various studies indicate that between 65 and 70 percent of young offenders have at least one mental health diagnosis; at least 60 percent meet the criteria for three or more. The story is even darker for minorities. In Tennessee, a survey of 600 minority youth in custody revealed that 52 percent met diagnostic criteria for at least one disorder; however, only 14 percent were referred to a mental health professional. Rather than addressing the underlying issues, detention centers and secure facilities focus on punitive measures that ignore the bigger picture. As pointed out by researcher J.J. Coccozza, “Many of these youth are in the juvenile justice system for relatively minor, nonviolent offenses and would be more appropriately served in community settings that allow them access to effective treatment, and give them the chance to stay connected to their families, schools, and communities” (2010).

Anabelle Douglas and Arthur Lurigio concluded that schools, community, the juvenile justice system and the mental health system have become lazy in their attention to mental health issues and have thus failed to provide adequate care for these youth. Without proper recognition and sufficient funding, few quality mental health services for youth are available. As a result, these youth face an increased likelihood of being left untreated; in turn, they may resort to delinquency and thus an adolescence entwined with the criminal justice system (2010). Douglas and Lurigio also reported an increase in the admittance of juveniles in mental health facilities.



Some states have established semi-effective crisis-intervention team (CIT) programs that focus on “recognizing mental illness and crises, responding appropriately to the recognized mental illness, and (offering) resources to provide follow-up care for the youth in distress” (Cocozza, 2010). However, very few services provide the proper follow up treatment after release from custody.

Multiple studies have shown that courts are more likely to deem White juvenile offenders as needing mental health assistance and African-American offenders as disorderly. Though there is no way to definitively explain this discrepancy, E. Cauffman provided three possible theories: “(1) real differences in the prevalence of mental disturbance, (2) differences in self-reporting of mental health problems, or (3) systemic bias that makes one ethnic group more likely than another to be referred for assessment, diagnosed as disturbed, or assigned to treatment programs” (2004). The lack of psychiatric resources is also a huge problem. In a Senate review of nearly 700 facilities, a quarter had no mental health services whatsoever and fewer than half provided adequately staffed treatment options.

Regardless of the explanations, without professional assistance, psychiatric disorders can lead to varied consequences. Youth with mental illnesses are more likely to experience trouble at school; in turn, more than half resort to dropping out. According to a report by the Coalition for Juvenile Justice, 85 percent of juvenile justice cases involved school dropouts, and 50 percent of youth drop outs had issues with mental illnesses (NAMI 2001). More alarming data shows that four times more suicides occur in juvenile justice facilities than within the general adolescent population. Though females are more likely to be diagnosed with mental health disorders, rates of suicide are higher among African American males than any other ethnic group or gender. This fact is especially worrisome, as the National Mental Health Association has reported that

“African American adolescents with mental health problems tend to be diagnosed with more severe disorders, including disorders considered less amenable to treatment” (2004).

Substance use disorders also commonly accompany mental diagnoses. In a study conducted by the National Center for Mental Health and Juvenile Justice, 61 percent of youth in custody were found to have a co-occurring problem with mental health and drug and alcohol abuse diagnoses. African American and Hispanic males were equally prone to substance abuse diagnoses (approximately 43 percent).

One of the most prevalent contributors to these high rates of mental health disturbances is the lack of attention to the personal trauma resulting from a childhood of maltreatment. Coccozza argued that placement in a corrections facility can exacerbate mental health symptoms by resurrecting memories of traumatic experiences such as abuse or neglect. Additionally, minority groups are vulnerable to witnessing violence and murder, which can lead to post-traumatic stress, depression and anxiety disorders. Without addressing these underlying needs, it is likely that these youth will continue to find themselves trapped in the juvenile justice system when mental health services could be the real solution we need.

## **Transfers**

Beginning in the 1980s, many states passed legal reforms designed to get tough on juvenile crime. One important reform was the revision of transfer (also called waiver or certification) laws (Griffin, 2003) to expand the types of offenses and offenders eligible for transfer from the juvenile court for trial and sentencing in the adult criminal court. These reforms lowered the minimum age for transfer, increased the number of transfer-eligible offenses or

expanded prosecutorial discretion and reduced judicial discretion in transfer decision making (Fagan & Zimring, 2000; Redding, 2003, 2005).

Juvenile placements in secure public facilities increased between 1979 to 1982, with minority juveniles representing 93 percent of the increase in juveniles placed in secure public facilities (Krisberg et al, 1987). During the same period, White youth represented 65 percent of the residents in private juvenile correctional facilities with only 47 percent in public facilities. Latinos and African Americans comprised 75 percent of the California Youth Authority inmate population (Morales, 1986). Nearly seven of 10 African American males faced at least one arrest, while the possibility for Whites was only three of 10. For every 100,000 African American youth living in the United States in 2003, 754 were in custody in juvenile facilities as compared to 348 Latinos and 190 White youth (Snyder & Sickmund, 2006). Although racial disparities occur at most levels in the system, it is more evident at the “transfer to adult court” level (Snyder & Sickmund, 2006). In addition, states have used reasons other than violent crimes to transfer youth, including drugs, which adversely affect minority youth (Blumstein, 1994).

The study, *Youth Crime/Adult Time: Is Justice Served?* (Juszkiewitz, 2000), analyzed the prosecution of minority youth in adult criminal court, finding that minority youth, especially African Americans, were overrepresented in the number of transfers and received disparate treatment at several levels of the judicial process. Of the 18 jurisdictions studied, 82 percent of the cases transferred to adult criminal court involved minority youth. In addition, Macallair (2000) found minority juveniles in California much more likely to be transferred to adult court and sentenced to prison than their White counterparts who committed similar offenses. Macallair reported that minority youth were 2.8 times more likely arrested for violent crimes, 6.2 times

more likely transferred to adult court and 7 times more likely sentenced to prison as compared to White youth.

Transfer law implementation patterns adversely affect minority youth at various stages of the judicial systems. Do minorities commit crimes that are more serious and is that the reason there are such disparities? In the 1989 Annual Report National Coalition of State Juvenile Justice Advisory Groups, African Americans commit serious crimes but not at a rate or level of any greater significance when compared to the rates of Whites. The two-year research project focused on the major stages of the juvenile court process—arrest, adjudication, disposition, judicial transfer, and incarceration. The investigation concluded that minority overrepresentation is evident at each stage of the juvenile court process and the disproportionality increases the further a youth advances in the juvenile justice system, which includes transfers to adult court.

In the 1990s state legislatures began passing laws allowing adult courts jurisdiction over certain serious, violent crimes committed by juveniles. These policies dramatically affected the lives of minority youth. The number of judicially waived cases to adult criminal court involving African-American youth increased by 35 percent between 1988 and 1997, as compared to a 14 percent increase for White youth (Puzzanchera, 1999).

The Juvenile Offenders and Victims: 2006 National Report found that nearly all (96 percent) of youth under the age of 18 newly admitted to prison in 2002 were male and most (79 percent) were age 17. African Americans accounted for 59 percent of new admissions under age 18; Whites, 28 percent; Hispanics, 11 percent; and youth of other race/ethnicity 2 percent.

The effects of transferring youth to the adult system in Illinois were reported by Elizabeth Kooy (2008). She stated that in 1985 the state of Illinois experimented with the idea of reducing

juvenile crime by transferring youth charged with drug crimes to the adult system. Over a 20-year period, thousands of youth, mainly minorities, were tried and sentenced as adults for low-level drug crimes ending in prison. Eventually, the Illinois drug transfer law became “the most racially biased in the nation,” Kooy stated. As a result, in 2005 the Illinois General Assembly changed its direction, issuing legislation that drug cases should begin in juvenile courts rather than automatically transferred to adult court.

The Juvenile Advocacy Division of the Georgia Indigent Defense Council (1999) tracked the effects of a bill passed in 1994, the School Safety and Juvenile Justice Reform Act. It required youth between the ages of 13 and 17 be tried as adults for very serious, violent crimes. They were required to serve a mandatory sentence of 10 years if convicted. Between 1994 and 1999, 75 percent of the 3,000 youth arrested were African Americans, although they represented only 33 percent of youth in the general population.

McCarthy and Smith (1986) posited that race is a more critical determinant at the later stages of the juvenile court process than at early stages. Therefore, it is important to study treatment of minorities in the juvenile justice system. Additional research studies regarding incarceration rates of minority youth, including African Americans, Hispanics, Native Americans and Japanese Americans conclude that minority incarceration rates are higher than White youth (Sheflin, 1979; Taft, 1981; Poe-Yamagata et al., 2000). Likewise, Pope, Lovel and Hsia (2002) conducted a meta-analysis of studies on race and the juvenile justice system. They discovered that approximately three-fourths of the studies regarding the disproportionality of minority youth in confinement demonstrated negative race effects during at least one level of the juvenile justice process.

Several studies regarding racial issues in juvenile courts have demonstrated that racial biases exist, but very few examined how a youth's race affects the juvenile court judge's appraisal of juveniles and their cases. Bridges and Steen (1998) analyzed perceptions of court officials regarding juvenile offenders to determine what impact perceptions have on racial disparities in dispositions for youth, reviewing the concepts of Attribution Theory and suggesting that people often attribute behavior or actions to factors of internal or external characteristics (Heider, 1958). When external aspects are ascribed to a person's acts, that individual is deemed less accountable than a person whose acts are considered based on internal factors (Rotter, 1966). Bridges and Steen asserted that court officials who "perceive minority offenders differently than Whites, may be more likely to perceive minorities' crimes as caused by internal forces and crimes committed by Whites as caused by external forces" (Bridges & Steen, 1998 p. 556). They analyzed three concerns: 1) whether a juvenile's race was associated with an official's ascription about a youth, 2) whether attributions impact appraisal of the probability of future crimes and sentence determinations, and 3) whether attributions play a pivotal role between the youth's race and official's assessment. They took into account the level of the criminal offense and the youth's criminal history. Bridges and Steen discovered that probation officers' reports on African-American youth more often included negative internal attributes than reports for White youth. Whereas, reports for White youths more specifically included negative external factors as contributing to their crimes than African-American youth. Crimes committed by African-American youth were attributed to negative viewpoints and character traits (internal factors). In contrast, White youths actions were more associated with environmental influences (external factors). However, there was no major difference by race in sentence suggestions.

## **Summary**

Because of the shift in the treatment of juveniles several years ago, much research has taken place to understand the impact of treating youth in a punitive setting versus a treatment and restorative setting. Several areas involving minority youth have been explored in literature, including schools, prevention programs, mental health diagnosis and treatment, and transfer to adult court. This study will discuss these areas in more detail and attempt to show their impact on minority youth in Tennessee.

## **State and Local DMC Delinquency Prevention and System Improvement Strategies**

For many years, the Tennessee Commission on Children and Youth (TCCY) has worked to prevent youth, especially minority youth, from coming in contact with the Juvenile Justice System. To provide a complete understanding of the current status quo in Tennessee, an overview of our current DMC delinquency prevention and system improvement strategies is needed.

The mission of the Tennessee Commission on Children and Youth is advocacy to improve the quality of life for children and families and provide leadership and support for child advocates. The “belief” statements for the Commission include the following:

- Children are Tennessee’s most precious resource, and they deserve a safe, healthy quality of life provided in the least restrictive, most appropriate living situation possible.
- Families and communities have the responsibility to sustain, nurture and protect their children.
- Government is an important partner in improving the lives of children and families in Tennessee.
- Tennessee has a responsibility to promote positive change for children and their families, especially children in need of state services.
- Every child deserves equitable treatment under the law.
- Services for Tennessee children should be provided through a system of care that strives for continuous improvement.
- The Tennessee Commission on Children and Youth provides objective evaluations and accurate information so Tennesseans can make good decisions for children.



Efforts to address disproportionality in the child welfare and juvenile justice systems are central to the mission of TCCY and to embodying its belief statements.

In addressing current strategies, it seemed appropriate to follow the domains included in the recommendations in the 2003 report. Those efforts are detailed below, along with other strategies that have been implemented.

### **Review of Past Study Recommendations**

The 2003 Tennessee DMC Study included recommendations for strategies to address DMC in the state. Those strategies and the steps taken to address them are described in the domains below.

#### *Mental Health*

One recommendation in 2003 was that the Department of Mental Health and Mental Retardation (now the Tennessee Department of Mental Health and Substance Abuse Services - TDMHSAS) should be brought back to the juvenile justice table. Substantial activities involving TDMHSAS since that time that have relevance for DMC.

**Mental Health and Substance Abuse Services.** The name of the Department of Mental Health and Mental Retardation has been changed to the Tennessee Department of Mental Health and Substance Abuse Services. Housing responsibility for these services in a single department has been a positive step forward. It facilitates stronger collaboration between closely related mental health and substance abuse services. Many adolescents, especially those involved with the juvenile justice system, have co-occurring mental health and substance abuse treatment needs. Mental retardation services are now provided through the Tennessee Department of Developmental and Intellectual Disabilities Services (TDIDDS). Both TDMHSAS and TDIDDS have increased emphasis on efforts to transition youth from their children and youth

services to their adult service systems. These efforts have made these transitions smoother for all youth, including those involved with the juvenile justice system.

**Council on Children's Mental Health.** In 2008, the Tennessee General Assembly established the Council on Children's Mental Health (CCMH) to bring together stakeholders to plan for implementation of a system of care for children's mental health in Tennessee. CCMH is co-chaired by the commissioner of TDMHSAS and the executive director of TCCY. CCMH is administratively attached to TCCY and was funded by TCCY with federal juvenile justice funds for the first few years. Federal dollars were allocated for this purpose because a substantial proportion of the children in the juvenile justice system have untreated mental health and substance abuse issues. Providing prevention and intervention services for children to avoid juvenile justice system involvement has been a major thrust of the Council.

CCMH members have included active participants from all state departments serving children, including the departments of Children's Services and Education. It has been a venue for working on a range of issues that impact the juvenile justice system. Relevant activities have either evolved through the Council or been vetted and/or shared with members of CCMH.

**Juvenile Court Evaluations.** The 2003 study raised concerns about a requirement that before the state paid for a mental health evaluation children had to be charged with a felony (through a process known as a Juvenile Court Commitment Order or JCCO at the pre-adjudication stage) or already be in state custody. There have been substantial changes in this process, and there are no longer JCCOs for inpatient evaluations. When juvenile courts need a mental health evaluation of a child, they notify the Department of Mental Health and arrangements are made for either an outpatient or inpatient evaluation, depending on the child's level of need. All evaluations are provided by contracts with local mental health providers,

community agencies or hospitals. The overwhelming majority of evaluations are conducted on an outpatient basis, which is a more normal environment for the child, more cost effective for the state and eliminates the incentive to issue a JCCO in order to get a “placement” for a child pre-adjudication. Legislation was passed in 2009 codifying this approach and providing some limited funding to ensure counties have the ability to provide appropriate placements for juveniles while receiving mental health evaluations.

**Tennessee Integrated Court Screening and Referral Project.** TDMHSAS, in partnership with the Administrative Office of the Courts, Centers of Excellence, Department of Children’s Services, Tennessee Voices for Children and the Tennessee Commission on Children and Youth, applied for and received federal funding for the Tennessee Integrated Court Screening and Referral Project (TICSRP). TICSRP provides juvenile courts with a Child and Adolescent Needs and Strengths (CANS)-based instrument to assist the courts in addressing the mental health needs of youth with non-violent charges who come in contact with the juvenile justice system. This pilot project has operated in 11 juvenile courts across the state, with special emphasis on rural jurisdictions and females. The intervention makes available a truncated version of the CANS instrument for identifying mental health needs prior to the detention hearing required by state law (T.C.A. 37-1-114), provides results of the instrument to the court at the hearing and facilitates referral of identified children and youth to community-based services if appropriate. Five of the identified counties have also been provided with a family support provider to assist the child and family in navigating the mental health service system. Between October and the end of June 2012, 2,532 CANS instruments were administered to assess children before the juvenile courts. This project is utilizing the CANS instrument as a universal service

planning and data collection tool. It is a clear indication that TDMHSAS is definitely “at the juvenile justice table” in Tennessee.

### *Education*

Similarly, there was a 2003 recommendation that a place at the table also needed to be found for the Department of Education and Local School Systems. As mentioned in the previous section, the Department of Education has been an active partner in the Council on Children’s Mental Health. Several additional activities demonstrate education’s involvement in efforts to improve the juvenile justice system, and juvenile justice system improvements impact DMC.

**School-Based Mental Health Services.** Providing mental health services in school settings has been shown to be effective in addressing children’s/youths’ needs and enhancing continuity of services. Education, the one constant in every child’s life, offers an opportune setting for case management; group and individual therapy; and behavioral support for child, parent, and teacher. When mental health needs are addressed in the school setting, children are less likely to be moved from the educational to the juvenile justice systems, a process that often disproportionately impacts minority students. Since 2003, Tennessee has implemented three good examples of school-based mental health services:

1. Centerstone Mental Health Center received national recognition for its school-based therapist program, which operates throughout Middle Tennessee, offering both case management and therapy to students in middle and high schools onsite and behavioral supports for teachers in the classroom.
2. Through federal Safe Schools Healthy Students grants, selected school systems in each of the three grand regions of the state have shown that providing mental health support and services at school have positive impacts on academic achievement, behavior in and out of

school and clinical functioning. Project Class in the Shelby County School system has utilized Mental Health Consultants in this capacity for several years and has successfully engaged school staff and parents in multiple evidence-based, proven effective resources and programs for helping children with social, emotional and behavioral health needs. Nearly half the students served have been TennCare/Medicaid eligible.

3. A third school-based program found to be effective when Tennessee had its first federally funded System of Care site is still being implemented on a limited basis by TDMHSAS across the state. In these sites, Mental Health Liaisons hired by community mental health centers serve at risk children/youth in middle school and act as links between school and home to improve behaviors, academic performance and overall functioning.

**Schools and Mental Health Systems Integration Grant.** The Department of Education Office of Coordinated School Health received an 18-month grant from the U.S. Office of Education to develop school policy, protocols, training and linkages with community mental health providers regarding prevention, identification, referral and follow-up of students needing mental health services. Teams from each local education agency received training and technical assistance to create a more seamless System of Care among schools, mental health providers and juvenile justice staff. As a follow-up, the State Board of Education recommended mental health guidelines for local education agencies to consider adopting. These guidelines encouraged use of a modified version of the CANS and increased collaboration of community-based services.

**Multi-Level Response System (MRS) Advisory Boards:** State law (T.C.A. 37-5-601) established provisions for a multi-level response system to safeguard families, prevent harm to children and strengthen families. It defines the composition and functions of independent local

advisory boards, referred to as Community Advisory Boards (CABs). Under the law, when possible harm to children is reported, varying levels of response are based on risk to the child. The law also assumes most children are better off in their own homes than not. Community Advisory Boards have been implemented statewide to assist with child protection and the provision of needed community services to children involved with the Department of Children's Services, which is both the child welfare and juvenile justice authority in Tennessee. The statutory membership of the CABs includes community representatives of schools, health departments and other health care and mental health providers, juvenile courts and law enforcement, families and others. They are to recommend strategies for coordination and development of community-based resources that may be needed by families. CABs have the authority to review individual cases so long as confidentiality is protected. They are important vehicles for bringing education to the juvenile justice table.

**School House Adjustment Program Enterprise (S.H.A.P.E.):** In July 2007, TCCY funded S.H.A.P.E. in the Memphis City Schools (MCS). The program is a collaborative effort between MCS, the Memphis Police Department (MPD), the Shelby County Mayor's Office, the Memphis City Mayor's Office, the Public Defender's Office and the Shelby County Juvenile Court. The strong collaborative approach on the part of key stakeholders and the substantial numbers of children, almost exclusively minority children, referred to the Shelby County Juvenile Court on each school day were strong factors in selecting Memphis/Shelby County for DMC funding efforts. S.H.A.P.E. is designed to intervene in school behavior circumstances as an alternative to referral to juvenile court. It has had demonstrated success in reducing the number of referrals from the Memphis City Schools to the Shelby County Juvenile Court, essentially interrupting the "school to prison pipeline." The success of S.H.A.P.E. was one of a number of

factors that led the Annie E. Casey Foundation to designate Memphis/Shelby County as a Juvenile Detention Alternatives Initiative (JDAI) site. The Foundation continues to work with the Memphis/Shelby County Juvenile Court to reduce unnecessary use of detention, a major factor in DMC. The Office of Juvenile Justice and Delinquency Prevention has designated S.H.A.P.E. as a best practice for addressing DMC (OJJDP, 2012).

**Education in Detention Study.** The State DMC Task Force has a strong commitment to improving educational opportunities for children placed in juvenile detention centers. Members led efforts to encourage the Tennessee General Assembly, through its Select Committee on Children and Youth, to assess the provision of educational services for children in juvenile detention. The results of these efforts was a study that detailed the current provision of educational services and presented recommendations for improving access to educational programming in juvenile detention. The study provides a foundation for future efforts to improve educational services for children placed in juvenile detention.

**Truancy Prevention/Intervention Efforts.** In recognition of the role truancy has as a precursor to juvenile justice involvement, strategies have been implemented in Memphis and Nashville, two cities with substantial minority populations. Memphis established a Truancy Center where children found absent from school could be taken and assessed to determine underlying circumstances contributing to truancy and linkages established with services to address them. Also in Memphis, the District Attorney General's Office established a mentoring program, with truancy reduction as one emphasis of the program. Nashville also established a Student Assistance Center, which is essentially a truancy center similar to the one in Memphis. Both are designed to keep children in school where they are more likely to be engaged in productive activities.

*Needs Assessment for Children and Families*

**Detention Assessment Tool.** In 2005, the Tennessee General Assembly charged the Tennessee Commission on Children and Youth with responsibility for convening a stakeholders group to develop a decision-making tool to assess the need for placing children in juvenile detention. The purpose of such a tool is to determine if a delinquent youth should be released back into the community with minimum risk of re-offending or not appearing for a scheduled adjudicatory hearing or whether the youth should be placed in detention. The stakeholder group developed a draft instrument that could be used by juvenile courts, and TCCY completed the required report to the General Assembly in 2006. Staff from the Memphis/Shelby County Juvenile Court actively participated in the detention assessment tool development effort. They subsequently field tested the instrument and made appropriate adjustments to ensure its efficacy. Use of the revised detention assessment tool, coupled with other strategies, including transporting children home when parents do not have transportation to pick them up at detention, has resulted in a substantial reduction in the number of children in detention in Memphis/Shelby County, the most populous county in the state and a county with an extensive minority population.

**Centers of Excellence for Children in State Custody (COE).** COEs were initially funded through the Governor's Office of Children's Care Coordination (GOCCC) to assist the state in meeting federally required Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services for children under 21. Following the closure of the GOCCC, responsibility for the COEs was transferred to the Department of Children's Services. COE consultation, diagnostic and care plan development services are available to the Department of Children's Services, Department of Health, community providers and Best Practice Network providers



involved in the care of children in or at-risk for custody. The Centers of Excellence currently exists at East Tennessee State University (Johnson City), University of Tennessee (Knoxville), University of Tennessee – Health Science Center (Memphis), Valley Hospital (Chattanooga) and Vanderbilt University (Nashville).

**Child and Adolescent Needs and Strengths (CANS).** COEs worked with DCS to support statewide implementation of a standardized assessment and service planning process using the CANS. CANS was chosen by DCS as the assessment tool best exemplifying strength-based, culturally responsive and family focused casework. The CANS was originally developed as a tool for mental health services and was subsequently adapted for child welfare, juvenile justice, mental retardation services and a variety of other social service settings. The CANS provides a communication basis for understanding permanency and treatment needs of youth and their families and supporting informed decisions about care and services. The CANS consists of about 65 items used to guide how DCS and its partners should act in the best interests of children and families. Each item is discrete and relates directly to the child's and/or family's needs and strengths. As discussed previously, a modified version of the CANS has been used in juvenile courts through the Tennessee Integrated Court Screening and Referral Project.

The COEs have consultants assigned to DCS regional offices to provide training, consultation and third-party review of CANS assessments. CANS is used to evaluate 95 percent of all children entering custody, and the COEs have trained over 4,000 child welfare workers to reliably administer the instrument. The CANS project represents successful statewide implementation of a strengths-based service planning tool. The CANS helps to create a common language to communicate a child's needs and strengths across systems. Additionally, the CANS provides data necessary for individualized, child-centered treatment plans, which can be

translated in the aggregate to evaluate system performance and child and family outcomes. The Council on Children's Mental Health has recommended use of the CANS as the standardized screening/assessment tool in all appropriate settings. Some of the TennCare/Medicaid Managed Care Organizations in Tennessee are using the CANS to identify the need for and type of home-based services provided to children in their enrollment. In Tennessee, Magellan Health Services provides free online training in the use of the CANS for representatives of its provider organizations. Centerstone, the nation's largest not-for-profit provider of behavioral health care and the largest provider in Tennessee, has adopted the CANS as the screening instrument for its children's mental health programs. The Department of Education/State Board of Education has recommended Local Education Agencies utilize the CANS to identify students who are appropriate for Alternative Education Programs.

**Other Assessments.** In addition to the use of the CANS, the Juvenile Justice Division of the Department of Children's Services has implemented the Youth Level of Service (YLS) instrument to assess the security/level of placement needs of children adjudicated delinquent and committed to DCS.

### *Cultural Competency*

In 2003, one recommendation suggested more cultural competency training be made available, and perhaps even mandatory, for all staff of the juvenile courts, DCS and any other appropriate agencies that work with juveniles. Juvenile Court Judge and State DMC Task Force Co-Chair Dwight Stokes is a champion of DMC training focused on using a DMC lens to ensure all children have an equal opportunity for success. Judge Stokes has made presentations at the annual conferences for several years. Participants have evaluated this training as excellent and

stated it really helps attendees have a better understanding and perspective on their individual roles in addressing DMC.

TCCY does not have the authority to mandate DMC training; nonetheless, staff has been deliberate in efforts to expand the provision of cultural competency training in Tennessee. TCCY provides some Federal Formula Grant funding to the Tennessee Administrative Office of the Courts (AOC) for training purposes. These funds are used to ensure juvenile court staff members have training opportunities, including training on cultural competency and DMC. TCCY serves as a co-sponsor for the Tennessee Council of Juvenile and Family Court Judges/Tennessee Juvenile Court Service Association Annual Conference, and ensures DMC/cultural competency training is included on the agenda, with TCCY staff often providing a workshop.

TCCY also serves as a co-sponsor for conferences of other appropriate organizations, again as a strategy to ensure cultural competency/DMC training is included on the agenda. When TCCY staff provides grant-writing training for federal funding, a focus on DMC and cultural competency issues is included.

TCCY staff participates with the AOC in its Court Improvement Project (CIP). While CIP is primarily focused on dependent, neglected and abused children, in Tennessee approximately one-third of the children adjudicated delinquent were previously involved with the child welfare system. A TCCY staff member serves as one of the trainers for CIP training for juvenile court judges and attorneys who represent children and/or serve as guardians ad litem for children involved with the child welfare system. Minority children are overrepresented in both the child welfare and juvenile justice systems. As more appropriate services are provided to children and families involved with the child welfare system, potential for reducing DMC in both systems is enhanced.

In spite of strides, TCCY recognizes there is still much work to be done. Historically DMC and cultural competency in Tennessee have been focused on African-American children. With changing demographics, there is increasing need to broaden that approach, and especially to include a focus on Hispanic children.

TCCY has taken action to be more intentional in its efforts to address disparities across the spectrum. At a meeting in August 2012, the Commission adopted a motion to focus on questions about the impact on all children, and especially on minority children, in all presentations, discussions, deliberations, etc., about the range of issues that impact DMC.

#### *Training and Data*

Recommendations in 2003 encouraged training and/or continuing education for juvenile justice system personnel on the critical importance of thorough and accurate data collection, as well as suggesting the inclusion of information about gang involvement in data required from counties. As discussed in the previous section, TCCY provides funding to the AOC for training juvenile court staff. This training sometimes includes information about the data. Staff at the AOC also provide technical assistance to juvenile court staff to assist in the submission of accurate data. Improving the availability of accurate data is an ongoing need and challenge. TCCY's Children's Program Outcome Review Team (CPORT) quality service review process collected information about gang involvement for children in the custody of the Department of Children's Services, a recommendation from the 2003 report. Unfortunately, the entire CPORT program was eliminated effective July 1, 2012. Accurate information about gang involvement is an ongoing challenge.

## **Current DMC Efforts, Taskforces and Site Selection**

TCCY has been engaged in a variety of strategies to address DMC and works toward reducing the over-representation of minority children through delinquency prevention and systems improvement strategies. TCCY requires all applicants for federal juvenile justice funds to provide information regarding how the proposed project would address DMC issues in the target community, and a focus on DMC is required for all recipients of federal funds. Since the 2003 report, funding has focused on delinquency prevention and early intervention efforts through a variety of university, local government and private-not-for-profit organizations across Tennessee. Examples have included local government and local education agencies, mental health organizations, Scouting, Exchange Clubs, Boys and Girls Clubs, Big Brothers/Big Sisters and a myriad of others. Program strategies have included mentoring and skill building. In addition to the provision of Federal Formula Grant dollars, TCCY also administered American Recovery and Reinvestment Act dollars awarded to Big Brothers/Big Sisters for the Amachi Program to provide mentoring services for children who have incarcerated parents, a group with both strong minority over-representation and extremely high risk of justice system involvement. Funds also have been provided for technical assistance to help local juvenile courts develop youth court programs.

The most significant DMC-related efforts in Tennessee have been in Memphis/Shelby County. Shelby County is the most populous county in the state, and a county with a very substantial proportion of all minority children involved with the child welfare and juvenile justice system. TCCY has employed several major strategies to address DMC in Shelby County. The agency has supported a local DMC Task Force there for many years. The S.H.A.P.E. program discussed above is operated by the Memphis City Schools, which had been responsible

for transporting a substantial number of children to the Shelby County Juvenile Court every school day. No other school system in the state provided such a direct pipeline to the juvenile court. As discussed above, S.H.A.P.E. has demonstrated success reducing referrals to juvenile court, and it has been designated as a best practice for reducing DMC by OJJDP.

TCCY continues to support a State DMC Taskforce and local DMC taskforces in five sites: Clarksville/Montgomery County, Knoxville/Knox County, Maryville/Blount County, Memphis/Shelby County and Nashville/Davidson County. The majority of these taskforces were initiated because of the interest and commitment of key leaders in the local communities. These taskforces are often initiated by stakeholders who are concerned about conditions impacting minority youth. The exception to this genesis for taskforces is Clarksville/Montgomery County where the juvenile court judge heard a presentation on DMC at a state conference and went home and proactively encouraged local leaders to establish a taskforce before problems and concerns arose.

TCCY has engaged in a variety of strategies to encourage the development of local taskforces in other communities that have a substantial minority population, with an emphasis on more populous counties. There have been fledgling efforts in Chattanooga/ Hamilton County and in Jackson/Madison County, but there has been insufficient local interest to keep taskforces operational in these areas. TCCY has had a Community and Strategic Planning (CASP) grant to expand the availability of local task forces. Efforts are ongoing in several areas to support a focus on DMC and minority issues. As mentioned in the previous section, TCCY is focused on greater intentionality in addressing DMC throughout the state, including through its regional councils on children and youth. TCCY has nine regional councils across the state with a total of

approximately 2,500 members. These will be a vehicle for increased efforts to focus on disparities, cultural competency and DMC.

Challenges faced in efforts to address DMC include the reductions in federal funding that have led to staff reductions within TCCY. This makes it more challenging to have the staff time to fully support the state and local task forces. Additionally, the Department of Justice prohibition on the use of any funds for the purchase of food is a deterrent to DMC efforts. It is often appropriate and virtually essential to provide snacks or lunch for DMC-related events that bring together people to meet, learn and discuss effective strategies for reducing DMC.

### **Other Noteworthy Efforts and Activities**

**Evidence-Based Programs.** In 2007, the Tennessee General Assembly passed legislation (T.C.A. 37-5-121) to require more evidence-based programming (EBP) in juvenile justice. This law provides definitions for evidence-based (EBP), research-based and theory-based practices and requires implementation of sound practices in all juvenile justice prevention, treatment and support programs. The goal is to identify and expand the number and type of EBPs in the juvenile justice service delivery system. The law provided for staggered implementation: 25 percent of JJ funds were to support EBP programs by FY 2010; 50 percent by FY 2011; 75 percent by FY 2012; and 100 percent by FY2013. The law permits pilot programs to apply for continued funding if evidence warrants it. DCS has made tremendous strides in meeting requirements of the law. These efforts have included a contract with Mark Lipsey at Vanderbilt, a national expert in evidence-based programs. Dr. Lipsey has worked with DCS and its contractors to assess their programs and ensure the provision of more evidence-based approaches

to service delivery. The use of more EBP has the potential to positively impact DMC. EBPs are essential for improved outcomes for children, including minority children.

**Youth Transitions Advisory Council (YTAC).** A Youth Transitions Advisory Council was established by the Tennessee General Assembly in 2009, and in 2011 responsibility for administering the YTAC was transferred to TCCY. YTAC is focused on helping young people who age out of state custody make successful transitions to adulthood. It also considers the transition needs of young people involved in other child-serving systems in Tennessee. YTAC has encouraged the Department of Children's Services to facilitate strategies that help youth who are adjudicated delinquent become eligible for federally funded assistance, such as that provided through the Fostering Connections to Success legislation, and to otherwise provide them with state-funded support for transition to adulthood. The emphasis on supporting successful transition helps reduce negative outcomes for youth in state custody, who are disproportionately minority, and, therefore, helps break cycles of DMC.

**Amachi Mentoring Program.** The Commission on Children and Youth applied for and received federal American Recovery and Reinvestment Act funding for the Amachi Program, a mentoring program for children of incarcerated parents, operated by Big Brothers/Big Sisters in Nashville, one of the areas in Tennessee that has disproportionate minority involvement in the juvenile justice system. The Amachi program has also subsequently received Federal Formula Grant funding. Children with incarcerated parents, who are disproportionately minority children, are at increased risk of juvenile justice system involvement. The positive influence of a mentor can help these children avoid justice system involvement and improve their prospects for success in school and in life.



**Department of Justice Investigative Findings on the Juvenile Court of Memphis and Shelby County, Tennessee.** In April 2012, the United States Department of Justice released its report regarding the Juvenile Court of Memphis and Shelby County. The report contained a number of findings and recommendations, many of which would have an impact on reducing DMC in Memphis/Shelby County. Memphis/Shelby County, and especially the Juvenile Court, is in the process of implementing major changes in conformance with the findings and recommendations. One of these will be the employment of a DMC coordinator for the Juvenile Court, certainly the first court in the state to put such a position in place. Improvements in court processing, provision of due process and the efforts of the DMC coordinator should have an impact on DMC in Shelby County.

**Three Branches Initiative.** Beginning in August 2012, an initiative including six representatives each from the Executive, Legislative and Judicial branches in Tennessee state government has been established to address issues in the child welfare and juvenile justice systems. This initiative provides the potential to positively impact both systems, and consequently positively impact all children, including minority children, who are disproportionately involved with the child welfare and juvenile justice systems in Tennessee.

## **Summary**

Tennessee has made significant strides in implementing the recommendations of the 2003 DMC study, as well as implementing other strategies to reduce disproportionality in the juvenile justice system in Tennessee, but much work remains to be done. There must be greater intentionality in addressing disparities in all forms to improve the opportunities for all children, especially minority children, to be safe, healthy, educated, supported and nurtured, and engaged

in productive activities that help them succeed in school, avoid juvenile justice system involvement and become good parents and productive employees in the future (DOJ, 2012).

## **Assessment/Study Goal**

The purpose of this mixed method study was to determine if there is statistical significance regarding race when compared with other mitigating factors of youth who have been referred to juvenile court. These mitigating factors were identified through a review of literature, recommendations of the professional staff at the Tennessee Commission on Children and Youth (TCCY) and members of the Disproportionate Minority Contact (DMC) Taskforces, and through a qualitative survey of adults who work with youth having contact with the juvenile justice system. Using these findings and recommendations, the study group compiled the following research questions guiding the study. The methodology of the study, including an overview of the research design, participants, instruments, data collection procedures are presented in this section. The specific research questions are listed below.

### **Research Questions**

- I. Are Delinquency Risk Factors Positively Correlated with DMC? More Specifically
  1. Is a Parent's Lack of Employment Positively Correlated with DMC?
  2. Is Type of Family Living Arrangement Positively Correlated with DMC?
    - i. Biological Parents;
    - ii. Father and Stepmother;
    - iii. Mother and Stepfather;
    - iv. Mother alone;
    - v. Father alone;
    - vi. Relatives;
    - vii. Adoptive Parents;
    - viii. Foster Family;

- ix. Institution; and
  - x. Independent.
3. Is the Absence of Legal Representation Positively Correlated with DMC?
  4. Is the Department of Children’s Services Region where a Child is Adjudicated Positively Correlated with DMC?
  5. Is the Type of Offense a Child is Charged with Positively Correlated with DMC?
    - i. Offense Against Persons;
    - ii. Offense Against Property;
    - iii. Illegal Conduct; and
    - iv. Status Offenses.
  6. Is a Child’s Prior History with the Juvenile Court Positively Correlated with DMC?
    - i. Previous Delinquent Offenses;
    - ii. Previous Alcohol and Drug Abuse Charges;
    - iii. Previous Status Offenses; and
    - iv. Previous Dependent/Neglect.
  7. Is a Parent’s Current or Previous Incarceration Positively Correlated with DMC?
  8. Is a Parent’s or Child’s Drug Use and/or Abuse Positively Correlated with DMC?
    - i. Parent’s Use/Abuse;
    - ii. Child’s Use/Abuse; and
    - iii. No known Use/Abuse.
  9. Is the Presence of a Learning Disability or Special Education Determination Positively Correlated with DMC?
  10. Is a Child’s Mental Health Diagnosis/Lack of Treatment Positively Correlated with DMC?
- II. Does Race/Ethnicity Have Any Significant Relation With DMC? More Specifically:

1. Does Race/Ethnicity Have Any Significant Correlation with How a Child is Referred?
2. Does Race/Ethnicity Have Any Significant Correlation with Placing a Child in Pre-Adjudication Detention?
3. Does Race/Ethnicity Have Any Significant Correlation with Whether a Child is Diverted?
4. Does Race/Ethnicity Have Any Significant Correlation with a Petition being filed on a Child?
5. Does Race/Ethnicity Have Any Significant Correlation with Whether or Not a Child is Found Delinquent?
6. Does Race/Ethnicity Have Any Significant Correlation with Whether or Not a Child Receives Probation?
7. Does Race/Ethnicity Have Any Significant Correlation with Whether or Not a Child Receives a Determinant Sentence?
8. Does Race/Ethnicity Have Any Significant Correlation with a Child's Transfer to Adult Criminal Court?

These questions are based on a typical null and alternative hypothesis where the null hypothesis assumes race is not correlated with the specific factor.

### **Research Methods and Designs**

This study will employ a mixed methods approach, including data analysis using a dataset obtained from the Administrative Office of the Courts (AOC) and a qualitative survey instrument developed by the study team. The existing dataset will be analyzed using the Relative Rate Index (RRI) based on a single sample chi-square test. The RRI is the measurement approach recommended by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to assess DMC in the juvenile justice system. RRIs provide a way for comparing the volume of activity for youth of color and White youth at each stage or point of contact in the juvenile justice system and to readily identify where significant disproportionalities exist. Based on the

usefulness of the RRI and its general acceptance in the research community, the basis of the measurement was used to test the mitigating factors where quantitative data was available. The data gathered from the survey instrument was presented in aggregate form with selected individual responses used to highlight the findings.

## **Materials and Instruments**

The existing dataset contained case records for all youth having contact with juvenile courts across the state in a given calendar year. A complete listing of the possible variables is included in the dataset has been attached in the appendices. The study team chose the most recent year (2011) of available data for use in the analysis of this study. The dataset was cleaned to ensure all records included children referred to the juvenile courts for possible delinquent and/or status offenses. Cases referred for only dependent/neglect charges were excluded from analysis in this study. Individual courts provided or entered the information included in this dataset. No information was added to the dataset received from the AOC.

The survey instrument used to gather the opinions of adults working with youth who have had contact with the juvenile justice system was created by the study team in Qualtrics Research Suite. The survey was initially piloted to over 40 potential respondents. No changes were made after the piloting process. The link and an invitation letter were sent to multiple databases, including youth services officers, juvenile court staff, juvenile court judges and magistrates, school disciplinary staff, school counselors, child advocates, mental health professionals and Department of Children's Services staff in child welfare and juvenile justice in addition to others. A paper version of the electronic survey and invitation letter has been included in the appendices. The survey database was cleaned to ensure only adults who had worked with youth

who have been in contact with juvenile court were included in the results. A total of 313 respondents were included in the final results answering only relevant parts of the survey. Respondents were encouraged to skip questions in which they had no knowledge about the subject matter. The survey was also written to mitigate participant bias on the concept of race. The survey was entitled *Survey of Treatment of Children and Youth in Tennessee's Juvenile Justice System*. Participants were to believe the study pertained to how youth were treated in juvenile justice in regards to a multitude of factors.

### **Data Collection, Processing, and Analysis**

#### *AOC Dataset*

Questions answered using cases from the AOC database were analyzed using the Relative Rate Index (RRI). For the questions relating to race/ethnicity and DMC, the standard Excel spreadsheet recognized by OJJDP was used. For other quantitatively based questions, the Statistical Package for the Social Sciences (SPSS) version 19 was used to calculate the simple sample chi-square analysis. This RRI was calculated to take into account the rate of activity for youth at each preceding stage, thereby adjusting for the dynamic nature of juvenile justice processing across different parts of the system. The equation for calculating the RRI is  $RRI = \text{Minority Rate of Activity} / \text{White Rate of Activity}$ .

An RRI of 1.00 indicates minorities and whites have the same level or rate of contact, while RRIs above or below 1.00 mean differences in rates of contact exist between the groups. For instance, an RRI of 2.5 for African Americans being referred to juvenile court would mean African American youth are 2.5 times more likely to be referred to court as White youth, given each group's numbers in the population. The size of the RRI indicates the magnitude of

difference between the two groups. If the RRI for one group is 4.0 and 2.0 for another, both groups show a disproportionate rate of contact when compared to Whites, and the first group has twice the DMC rate as the second group. All RRIs are tested for their statistical significance at a 95 percent confidence. In other words, there is a less than one chance in 20 that the rates of contact are really the same. The specific question is whether the volume of activity for the minority group could have occurred if the rates of contact for White and minority youth were ‘the same,’ excluding random chance. RRIs are only calculated for groups representing at least 1 percent of the total population. In Tennessee, Asian, Native Hawaiian or Pacific Islander and American Indian or Alaskan Native populations do not meet this criterion and are not discussed separately in this report. Additionally, as Hispanic or Latino is an ethnic group and not considered a defined race, this group is also not individuated.

In traditional RRI testing for Tennessee, the only categories used are referrals, cases diverted, cases involving secure detention, cases petitioned, cases resulting in delinquent findings, cases resulting in probation placement, cases resulting in confinement in secure juvenile correctional facilities and cases transferred to adult court. Considering this measurement’s intended applicability, this study also uses the underlying single sample chi-square test and related significance testing of the RRI for other factors related to race. This test was selected because it makes no assumptions that rates of activity are normally distributed and because it is one of the most vigorous tests available. These factors again only assume a difference in the volume of activity factors in the minorities’ percentage of the general population (TCCY, 2012).



*Survey of Treatment of Children and Youth in Tennessee's Juvenile Justice System*

Potential participants in the survey were sent an email based on their membership in a database maintained by TCCY or one of its partners because of their role in working with youth in the juvenile justice system. A simplified informed consent and instructions for additional information or assistance were included in the accompanying email text and in the introduction to the actual electronic survey. The survey was housed in the Qualtrics Research Suite, and all respondents' information was maintained in the Suite's database. The respondents were initially asked to identify their role in working with youth who come in contact with the juvenile justice system. Questions forcing respondents to submit a quantitative answer, such as a ranking or percentage were analyzed by comparing means for statistical significance, where possible, or have been reported as the corresponding percentage. Text or essay responses were categorized and totaled where possible to provide some overall understanding of responses. The different type of responses have been identified in the results section of this report.

## Assessment/Study Findings

The study group began to compile and review information in terms of the study questions previously presented. Using a mixture of the qualitative and quantitative data, the results will be presented in relation to the corresponding section of factors. The following population data for all Tennessee youth between the ages of 10 through 17 by race was obtained from the Tennessee Department of Health as a population projection for 2011 as based on the 2010 Census.

Table 1

*Population of Youth Ages 10-17 in Tennessee by Race Used in the Study Analysis*

Total Youth	White	African American	Hispanic or Latino	Asian	Native Hawaiian or other Pacific Islanders	American Indian or Alaska Native	Other/Multiple	All Minorities
627,828	473,302	130,982	14,336	6,055	247	1,763	15,479	168,862
Meets 1% Threshold	Yes	Yes	Yes	No	No	No	Yes	

The AOC dataset does not use Hispanic/Latino or Native Hawaiian/Other Pacific Islanders in its race categorization. Those numbers will only be included in the total of all minorities for the purposes of these calculations. Three groups do not meet the required 1 percent threshold to be included in statistical significance testing because there is not a large enough sample.

### Delinquency Risk Factors

Several factors were identified as delinquency risk factors, including, parental employment, family living arrangement, legal representation, type of offense and others

previously mention. Several of these factors could be analyzed through the case file dataset received from the Administrative Office of the Courts. There were 83,986 children referred to juvenile court during 2011. The dataset was cleaned to the intended age target of 10 through 17, creating a total of 61,556 to be used for the following analyses.

### *Quantitative Analysis*

**Type of Living Arrangement.** The AOC dataset includes 13 different types of living arrangement for juveniles coming into contact with the court. The following table displays the numbers of youth by race by living arrangement. The table also includes the corresponding number used in the dataset to denote the type of arrangement.

Table 2

*Number of Youth Categorized by Race in Various Living Arrangements at Time of Contact with Court*

			Race						
			White	African American	Native American	Asian	Multiple	Unknown	Total
			1	2	3	4	5	7	
Total			12131	20551	48	192	1022	1390	
Living Arrangement	Biological Parents	1	10092	1558	19	70	108	284	12131
	Father and Stepmother	2	597	153	0	0	13	11	774
	Mother and Stepfather	3	2097	602	7	9	63	46	2824
	Mother	4	14920	12892	11	64	570	571	29028
	Father	5	3542	1008	5	13	51	79	4698
	Other Relatives	6	2685	2055	3	7	101	73	4924
	Adoptive Parents	7	300	74	0	1	17	3	395
	Foster Family	8	510	314	1	2	37	17	881
	Group Home	9	313	205	0	0	12	5	535
	Residential	10	238	124	1	0	12	8	383
	Institution	11	39	66	0	0	2	1	108
	Independent	12	109	14	0	1	0	7	131
	Unknown	77	2616	1224	0	24	26	269	4159
Other	99	295	262	1	1	10	16	585	

The rate index for each group with enough cases for analysis is included below. The statistical significance results are in bold.

Table 3

*Relative Rate Index Using Single Sample Chi-Square by Race for Various Living Arrangements at Time of Contact with Court*

			Race		
			African American	Multiple	All Minorities
Living Arrangement	Biological Parents	1	<b>0.56</b>	<b>0.33</b>	<b>0.49</b>
	Father and Stepmother	2	<b>1.66</b>	<b>2.03</b>	<b>1.60</b>
	Mother and Stepfather	3	1.12	**	<b>1.17</b>
	Mother	4	<b>3.37</b>	**	<b>3.26</b>
	Father	5	1.11	**	1.09
	Other Relatives	6	<b>2.69</b>	<b>2.61</b>	<b>2.65</b>
	Adoptive Parents	7	<b>0.32</b>	1.51	<b>0.38</b>
	Foster Family	8	<b>0.80</b>	<b>1.93</b>	<b>0.86</b>
	Group Home	9	<b>2.30</b>	<b>2.66</b>	<b>2.28</b>
	Residential	10	<b>1.88</b>	1.54	<b>1.61</b>
	Institution	11	<b>6.12</b>	**	<b>4.89</b>
	Independent	12	<b>0.01</b>	**	<b>0.08</b>

\*\* Insufficient number of cases for analysis

This analysis demonstrates certain living arrangements are positively related to race and disproportionate minority contact. African-American youth in group homes and institutions are almost 2.5 times and over six times, respectively, more likely to come in contact with the court when compared to their white counterparts in the same living arrangement. Additionally, minority youth living with their single mother and/or other relatives also have a greater disproportionality when compared with other living arrangements. However, minority youth who

are currently living with both biological parents, adoptive parents and/or are living independently appear to contact the court at a rate significantly less than their White counterparts. Additional study would be needed to determine if there are factors within the living arrangement affecting this outcome.

**Department of Children’s Services (DCS) Region.** DCS has been structured into 12 different regions where nine regions are comprised of multiple counties and include largely rural areas. Three of the regions are single counties representing larger metropolitan areas. Reviewing outcomes or factors by this breakdown has been effective in other studies conducted in Tennessee. Several professionals also recommended reviewing case data by DCS region as historically regions have had differing relationships with their juvenile court systems. The study team was interested in each region separately in addition to reviewing regions in relation to each other. The following map shows the regional structure of DCS.

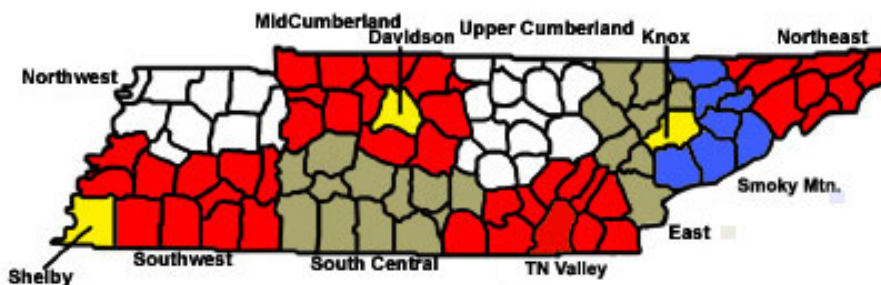


Figure 1. Map of the State of Tennessee depicted with county boundaries categorized by regions as defined by the Department of Children’s Services. Retrieved from <http://www.tn.gov/chidren>

The AOC dataset does not separate cases by DCS region but instead by the court of jurisdiction. The study team manually recoded the data by region. The table shows the break down of youth by race by region.

Table 4

*Number of Youth Categorized by Race and Grouped by the Department of Children’s Services’*

*Region the Court of Jurisdiction Resides.*

			Race					
			White	African American	Native American	Asian	Multiple	Unknown
			1	2	3	4	5	7
DCS Region	Northeast	1	4595	239	11	8	84	62
	Smoky Mountain	2	4073	223	8	5	109	80
	Knox	3	1925	765	0	7	46	112
	East	4	2576	92	0	2	32	24
	Upper Cumberland	5	3386	71	5	3	53	10
	TN Valley	6	3746	2049	0	4	111	41
	Mid Cumberland	7	7498	1866	11	69	198	472
	Davidson	8	863	2050	0	42	53	506
	South Central	9	3628	580	0	2	127	23
	North West	10	2196	1042	4	1	101	40
	South West	11	2256	1691	2	6	47	20
	Shelby	12	1611	9883	7	43	61	0

The rate index for each group with enough cases for analysis is included below. The statistical significance results are in bold.

Table 5

*Relative Rate Index Using Single Sample Chi-Square by Race and Grouped by the Department of Children’s Services’ Region the Court of Jurisdiction Resides.*

			Race		
			African American	Multiple	All Minorities
			2	5	7
DCS Region	Northeast	1	<b>0.19</b>	<b>0.56</b>	<b>0.21</b>
	Smoky Mountain	2	1.05	<b>1.46</b>	<b>1.14</b>
	Knox	3	<b>7.64</b>	<b>1.31</b>	<b>5.71</b>
	East	4	<b>0.69</b>	<b>0.68</b>	<b>0.66</b>
	Upper Cumberland	5	<b>0.59</b>	<b>1.26</b>	<b>0.80</b>
	TN Valley	6	<b>26.09</b>	<b>1.89</b>	<b>14.82</b>
	Mid Cumberland	7	<b>11.87</b>	<b>1.69</b>	<b>7.33</b>
	Davidson	8	<b>66.51</b>	<b>4.94</b>	<b>50.81</b>
	South Central	9	<b>0.58</b>	1.07	<b>0.55</b>
	North West	10	<b>2.97</b>	<b>1.31</b>	<b>2.68</b>
	South West	11	<b>4.69</b>	<b>0.30</b>	<b>3.96</b>
	Shelby	12	<b>38.37</b>	1.08	<b>31.74</b>

This chart shows several disparities among DCS regions for African-American youth. Two of the major metropolitan areas of the state show a higher RRI than their more rural areas. Because the RRI is based on the population of the area, this measurement does account for differences in the overall population of each race. This study simply uses these regions to show different community structures across the state. This study is not intended to show a difference in the actual work or services performed by DCS.



**Prior History with Juvenile Court and Drug Abuse History.** Recidivism or prior contact has frequently been used as a factor in studies concerning the courts. The dataset includes indicators for youth who have had a prior history with the courts in four areas: delinquent offenses, alcohol and drug abuse charges, status offenses and dependent/neglect. The totals related to each area are outlined in the table below.

Table 6

*Number of Youth with Prior Offenses and/or History with the Juvenile Court Categorized by Race and Type of Offense/History.*

		Previous Delinquent Offenses	Previous Alcohol and Drug Abuse Charges	Previous Status Offenses	Previous Dependent/Neglect History
		Yes	Yes	Yes	Yes
		1	1	1	1
Race	White	7630	2414	7129	1522
	African American	5447	951	2366	2179
	Native American	14	0	15	0
	Asian	25	14	26	0
	Multiple	302	78	249	100
	Unknown	247	61	245	20
	Total	13665	3518	10030	3821

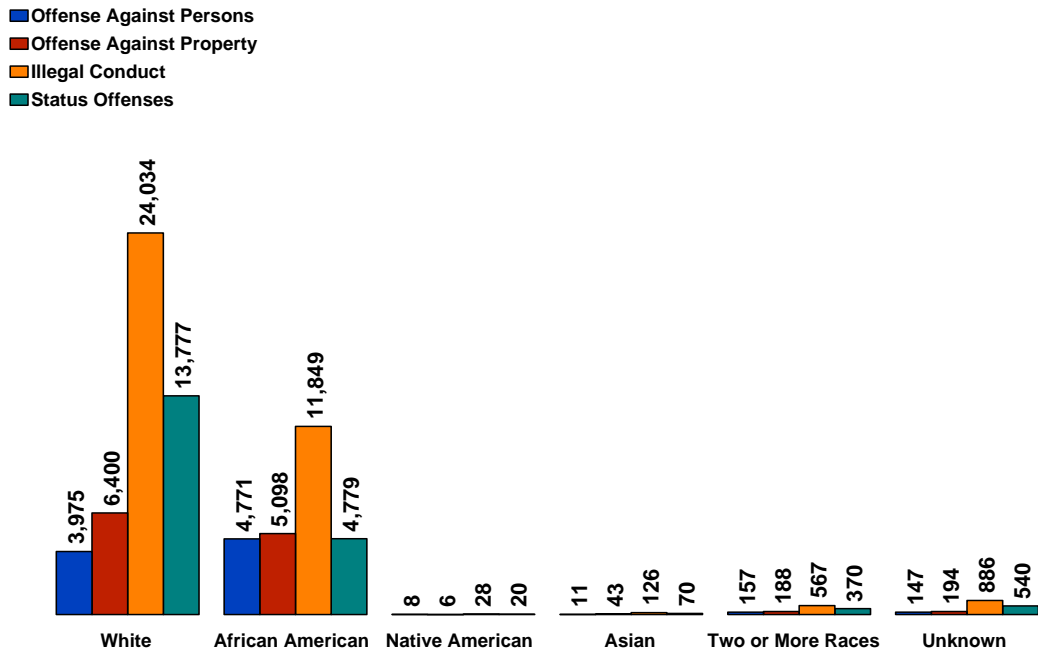


Figure 2. Number of Youth with Prior Offenses and/or History with the Juvenile Court Categorized by Race and Type of Offense/History. This graph includes only ages 10-17 as defined by OJJDP. The information was obtained from the Tennessee Administrative Office of the Courts.

The rate index for each area with enough cases for analysis is included below. The statistical significance results are in bold.

Table 7

*Relative Rate Index Using Single Sample Chi-Square by Race and Type of Offense/History.*

		Previous Delinquent Offenses	Previous Alcohol and Drug Abuse Charges	Previous Status Offenses	Previous Dependent/Neglect History
Race	African American	<b>2.58</b>	<b>0.55</b>	<b>0.84</b>	<b>3.63</b>
	Multiple	<b>1.21</b>	<b>0.82</b>	1.08	<b>2.03</b>
	All minorities	<b>2.13</b>	<b>0.57</b>	<b>0.86</b>	<b>3.47</b>

Minority youth who have previous delinquent offenses and a previous dependent/neglect history are at least twice as likely to return to the court when compared with their White counterparts. The remaining areas suggest minorities are less likely to return for these charges and significantly less so than their majority counterparts. This analysis is unable to distinguish if these results are based on the child's individual history with the court or the simple act of reappearing before the court. However, these results illustrate the need for additional study to determine prevention methods for youth who have a history of dependent/neglect as these youth are three times more likely to reappear before the court.

**Learning Disability or Special Education Determination.** The prior DMC study conducted in 2003 found a significant need for education to be more involved with the courts statewide and locally. The study found struggles in education were a possible determining factor in a youth's risk of contact with the juvenile court. The study team wanted to review information around a child's success or struggles in the education arena. Sufficient quantitative data does not exist to rate/measure all cases in the AOC database by educational progress. One variable present for analysis is related to a youth's participation in either a non-graded special education class or a resource/special education class as part of the normal school day. Only eight children were noted as attending a non-graded special education program. This variable was then excluded from the analysis as having too small a sample size. A total of 3,925 youth were noted as attending some portion of a resource or special education class. The following represents the racial breakdown: 2,250 were White, 1,542 were African American, four were Native American, seven were Asian and 92 were of multiple races. None of these races was large enough to meet the threshold for analysis. More information about the educational system and its impact on disproportionate minority contact will be discussed in the qualitative results.

*Qualitative Analysis*

The *Survey of Treatment of Children and Youth in Tennessee’s Juvenile Justice System* contains 313 responses from adults who work with youth who have been in contact with the juvenile justice system. The primary working area of the respondents is outlined in the chart below.

Table 8

*Self-Identified Primary Working Area of Respondents to the Survey.*

#	Answer	Response	%
1	Court	79	23
2	School	82	24
3	Child Welfare	78	22
4	Community	109	31
	<b>TOTAL</b>	348	

Respondents were asked to respond to different questions regarding their knowledge of the treatment of juveniles in the juvenile justice system. The first four questions asked respondents to rate the importance of the following factors on a Likert scale of one to four (four being the more important and one being less important). The factors were grouped by domains. Questions about each of the four domains were answered separately. The following charts show the mean responses for each factor grouped by domain. The factors found to be significantly more important than the other factors in the domain are in bold.

Table 9

*Mean Scores for the Perceived Importance for Factors Related to the Child.*

#	Question	Mean
7	<b>The seriousness of the offense charged</b>	<b>3.71</b>
5	<b>Child's attitude</b>	<b>3.49</b>
1	<b>Age of the child</b>	<b>3.25</b>
4	The child's educational level	2.63
6	Child's style and manner of dress	2.61
3	Whether the child is male or female	2.29
2	Race of the child	2.23
8	Ethnicity of the child	2.19

Table 10

*Mean Scores for the Perceived Importance for Factors Related to the Child History.*

#	Question	Mean
12	<b>Child's prior juvenile court history</b>	<b>3.5</b>
3	<b>Whether the child is involved in a gang</b>	<b>3.49</b>
2	<b>Whether the child is suspected of using drugs or alcohol</b>	<b>3.42</b>
4	<b>Child's prior school disciplinary history</b>	<b>3.34</b>
1	<b>Whether the child exhibits mental health treatment needs</b>	<b>3.3</b>
11	<b>Whether the child is currently/or has been in the custody of the state</b>	<b>3.12</b>
10	Whether the child is a victim of abuse	2.9
6	Whether the child has a developmental or intellectual disability	2.89
7	Whether the child is in special education	2.73
9	Whether the child is a parent and has children	2.56
5	Whether the child has a physical disability	2.49
8	The child's engagement in school or extra curricular activities	2.32

Table 11

*Mean Scores for the Perceived Importance for Factors Related to the Child's Parent/Guardian.*

#	Question	Mean
<b>11</b>	<b>Parent or caregiver's attitude</b>	<b>3.35</b>
<b>2</b>	<b>Whether or not the parent or caregiver is present in court</b>	<b>3.22</b>
<b>6</b>	<b>Whether the parent or caregiver is suspected of using drugs and alcohol</b>	<b>3.17</b>
<b>8</b>	<b>Family's prior court history</b>	<b>3.04</b>
1	Whether or not the parent or caregiver is involved in the child's school	2.89
5	Whether the parent or caregiver exhibits mental health treatment needs	2.88
7	Family's prior school disciplinary	2.71
12	Whether the parent or caregiver has a developmental or intellectual disability	2.55
3	Parent or caregiver's style and manner of dress	2.54
4	Socioeconomic status of the family	2.47
9	Whether the parent or caregiver is employed	2.31
10	Whether the parent or caregiver has a physical disability	2.18

Table 12

*Mean Scores for the Perceived Importance for Factors Related to the Other Relevant Factors.*

#	Question	Mean
<b>1</b>	<b>Whether the child has legal representation</b>	<b>3.03</b>
<b>4</b>	<b>Whether the child has an extended support system of family or community members</b>	<b>2.8</b>
2	Prior history with the child's legal representative	2.59
3	Living arrangements of the child (i.e., two-parent, single-parent, relatives, foster care, homeless)	2.49

Several of the significant factors, such as seriousness of offense charged, prior history with the court and involvement with state's custody, are consistent with the findings from the quantitative analysis. These factors were significant in relation to race. The remaining

significant factors appear to be common themes through the survey. The attitude of the child and family are consistently noted in the more text-laden parts of the survey.

**Primary Causes of Juvenile Crime.** In an open-ended question, respondents were to give the six top primary causes of juvenile crime in their county. No choices or suggestions were given in the instructions to this question. There were 209 responses to this question, the greatest response of any open-ended question in the qualitative portion of the survey, suggesting that participants felt strongly about the needs of the youth in their communities across Tennessee. The responses were categorized into four domains: specific issues affecting youth, economic and environmental factors, contributing parental issues and community structures. A breakdown of the key elements, which respondents viewed as primary causes for juvenile crime, is illustrated in the graphic.

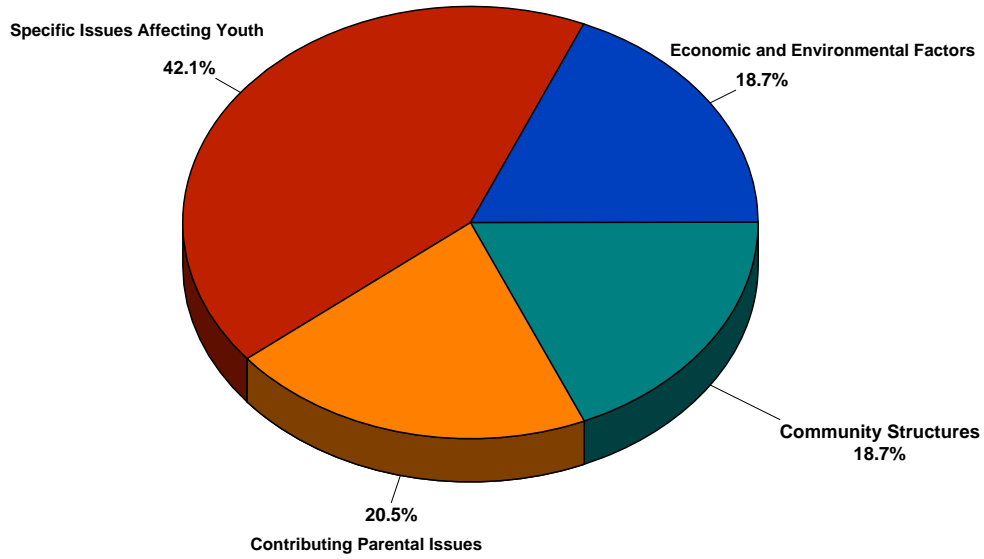


Figure 3. Four Domains of Coded Qualitative Responses Regarding Causes of Juvenile Crime in the Respondent’s Community. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee’s Juvenile Justice System Survey Results 2012.

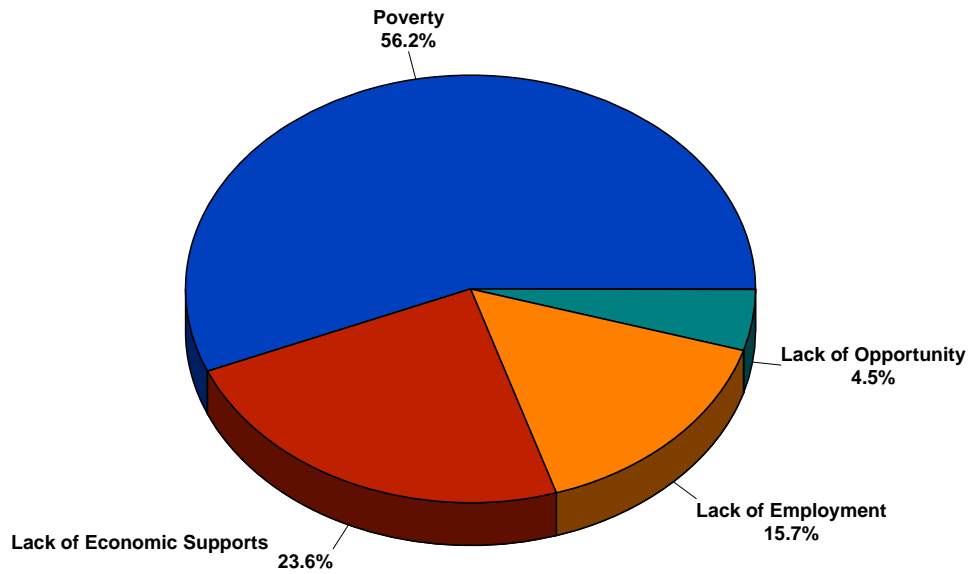
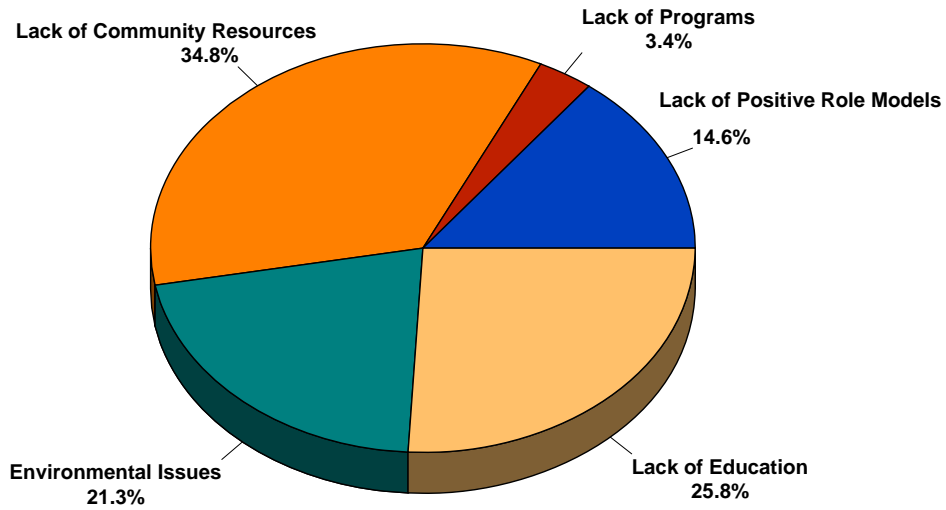
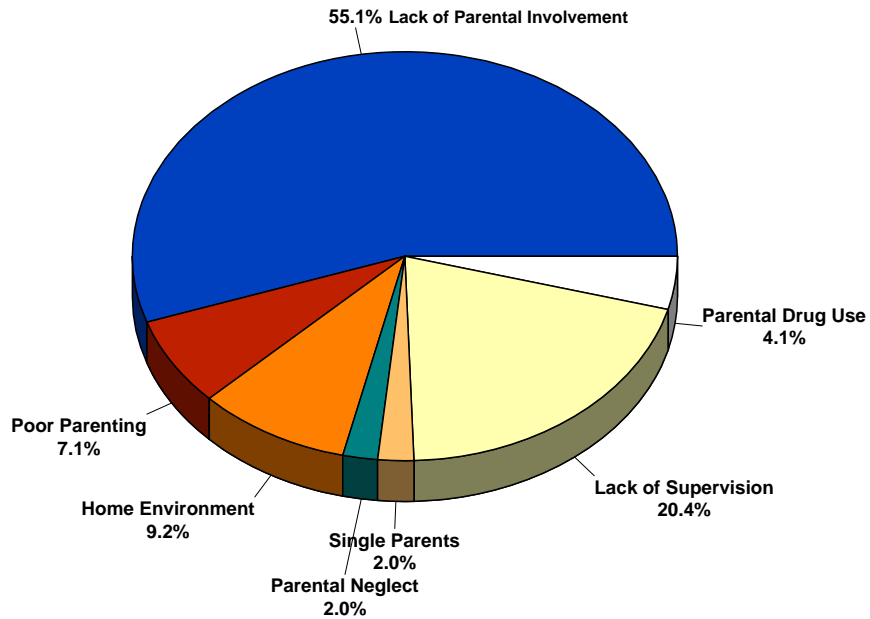


Figure 4. Response Groupings within the Environmental Factors Domain of Coded Qualitative Responses Regarding Causes of Juvenile Crime in the Respondent’s Community. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee’s Juvenile Justice System Survey Results 2012.

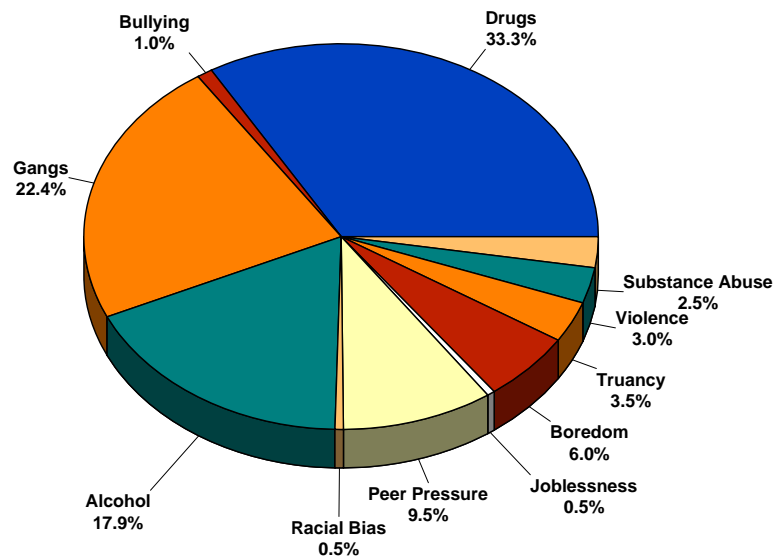




*Figure 5.* Response Groupings within the Community Structures Domain of Coded Qualitative Responses Regarding Causes of Juvenile Crime in the Respondent's Community. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee's Juvenile Justice System Survey Results 2012.



*Figure 6.* Response Groupings within the Contributing Parental Issues Domain of Coded Qualitative Responses Regarding Causes of Juvenile Crime in the Respondent's Community. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee's Juvenile Justice System Survey Results 2012.



*Figure 7.* Response Groupings within the Specific Issues Affecting Youth Domain of Coded Qualitative Responses Regarding Causes of Juvenile Crime in the Respondent’s Community. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee’s Juvenile Justice System Survey Results 2012.

**Transfers to Adult Court and Effective Sentencing.** Respondents were then asked to what extent the following factors influenced a youth’s transfer to adult court. The table displays the mean responses with the significant responses in bold. The respondents again answered on a Likert scale with four being more important and one being less important.

Table 13

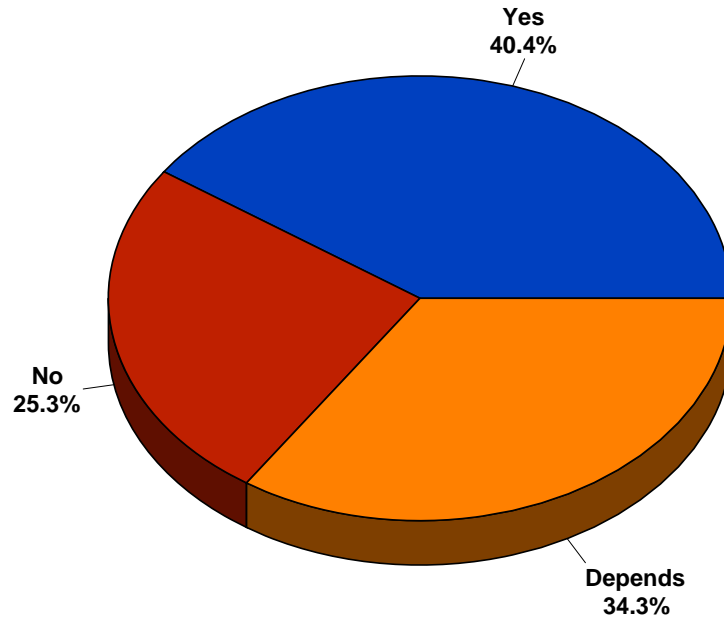
*Mean Scores for the Perceived Importance for Factors Influencing a Youth’s Transfer to Adult to Court.*

#	Question	Mean
3	Seriousness of offense	3.79
4	Repeat offender	3.53
5	Gang involvement	3.27
1	Child will age out of the juvenile justice system prior to serving an appropriate length of time	2.95
9	Legal representation	2.75
10	If other, please explain.	2.44
6	Family environment and circumstances	2.38
8	Cost to the county to detain the child in the juvenile justice system	2.23
7	Socioeconomic status	2.21
2	Race	2.19
11	Ethnicity	2.12

Many professionals on the study team agreed the factors found significant in response to this question were congruent with the intent of the law authorizing juvenile transfer to adult court; however, the quantitative analysis shows race is a highly significant contributing factor in transfers to adult court. The above significant factors may be more prevalent in minority youth facing a possible transfer. Additional study is needed to determine if these factors are significant for minority youth who are transferred. Data was not currently available to make a quantitative analysis as suggested.

When respondents were asked if they considered the process for referring a child to criminal court for trial as an adult as an effective means of handling serious violent juvenile

offenders, a majority stated the effectiveness depended upon the circumstances. Respondents' answers were subjectively coded as *yes*, *no* or *depends* in order to be represented in the following graph.



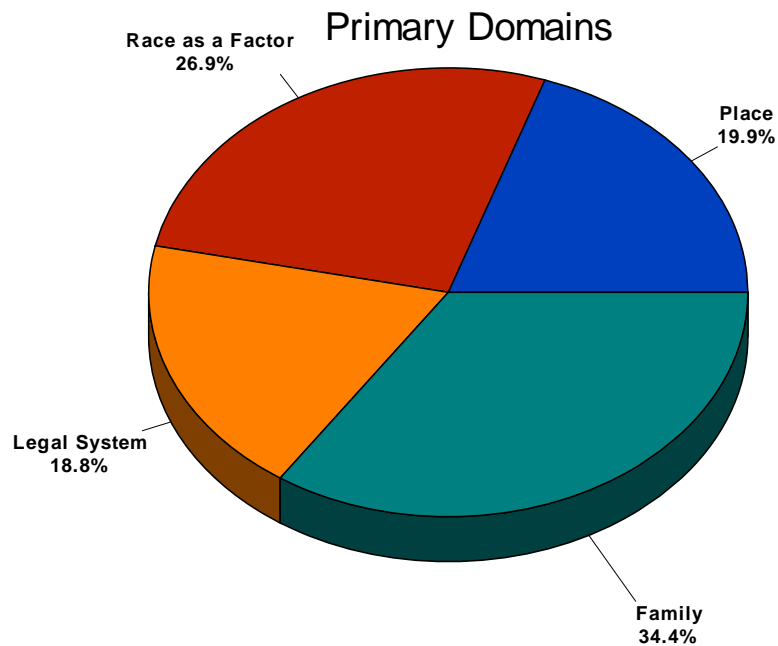
*Figure 8. Coded Qualitative Responses Regarding the Process for Referring a Child to Criminal Court for Trial as an Adult as an Effective Means of Handling Serious Violent Juvenile Offenders. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee's Juvenile Justice System Survey Results 2012.*

When respondents were given a prior year's statistic clearly stating the overwhelming majority of transfers were minority youth, 191 responses were categorized into the domains of family, legal system, race as a factor in and of itself, and place or surroundings. One respondent simply stated,

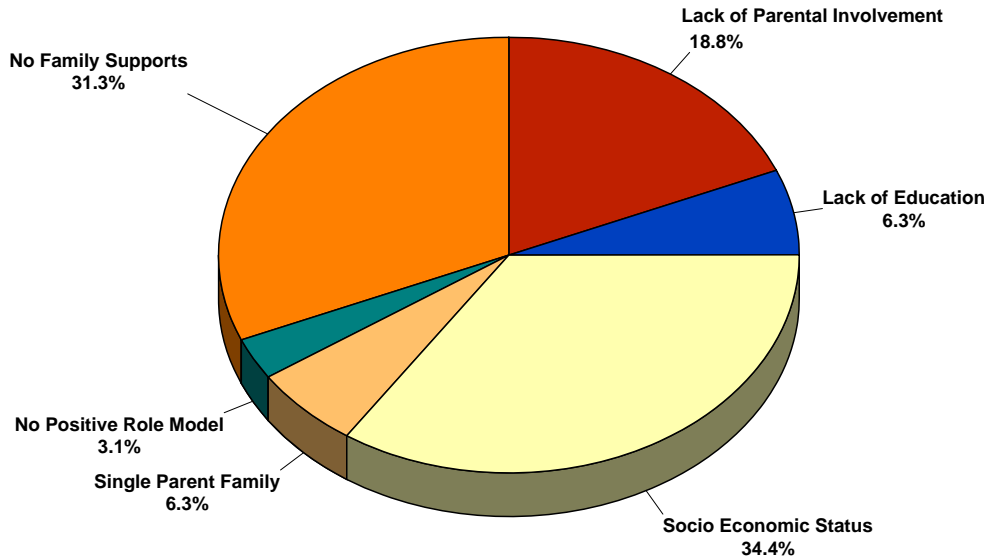
There is a stigma that minority children cannot be rehabilitated and that jail is the only place for them. I believe that the courts will look at a Caucasian child, especially one that comes from an affluent family, and automatically assume that the child can be

rehabilitated in Juvenile Court. I believe that if a minority child and a Caucasian child were both facing transfer for the same crime and had the exact same record, the court would be more likely transfer the minority child based on perception and an assumption that the Caucasian child is more likely to want to be rehabilitated than the minority child.

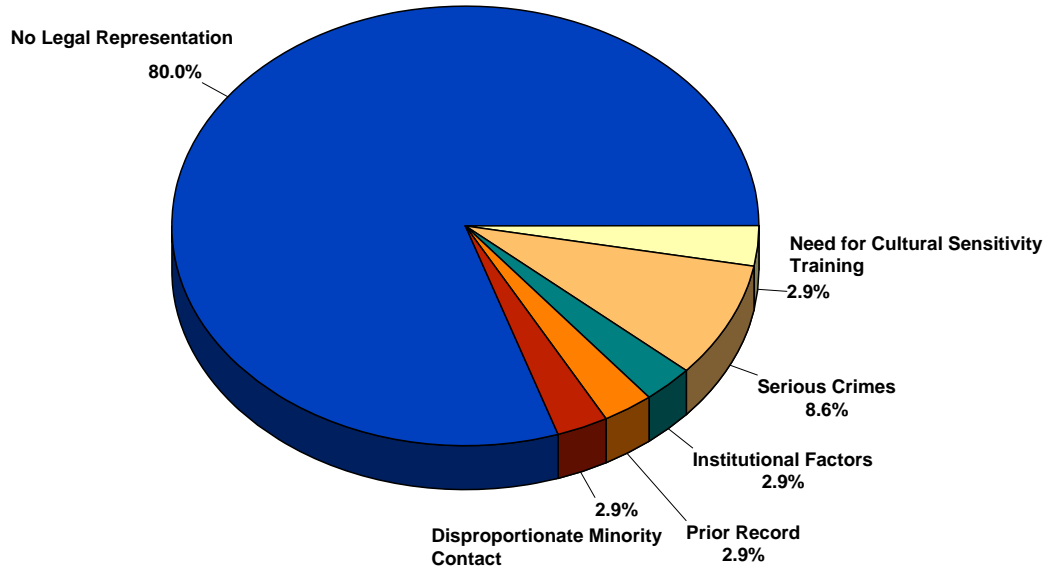
A breakdown of each domain is depicted in the graphs below.



*Figure 9. Four Domains of Coded Qualitative Responses Regarding Reasons Explaining Minority Youth's Over-Representation in Transfers to Adult Court. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee's Juvenile Justice System Survey Results 2012.*



*Figure 10.* Response Groupings within the Family Domain of Coded Qualitative Responses Regarding Reasons Explaining Minority Youth's Over-Representation in Transfers to Adult Court. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee's Juvenile Justice System Survey Results 2012.



*Figure 11.* Response Groupings within the Legal System Domain of Coded Qualitative Responses Regarding Reasons Explaining Minority Youth's Over-Representation in Transfers to Adult Court. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee's Juvenile Justice System Survey Results 2012.

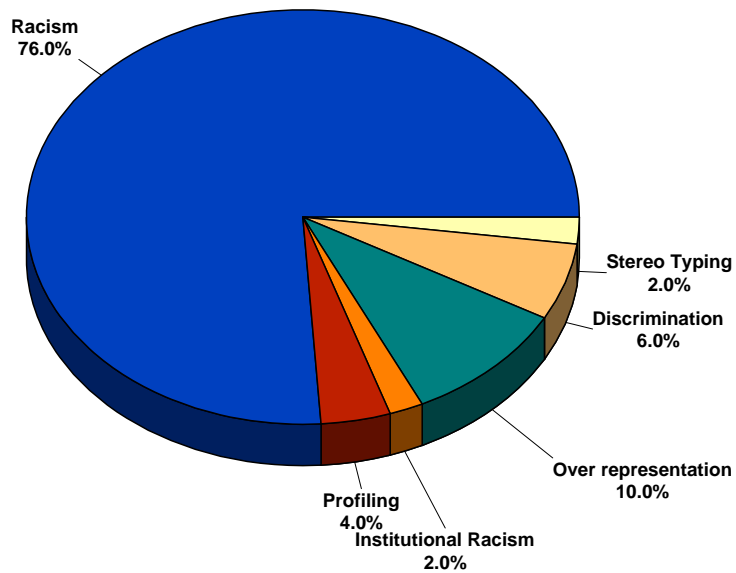


Figure 12. Response Groupings within the Race as a Factor Domain of Coded Qualitative Responses Regarding Reasons Explaining Minority Youth’s Over-Representation in Transfers to Adult Court. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee’s Juvenile Justice System Survey Results 2012.

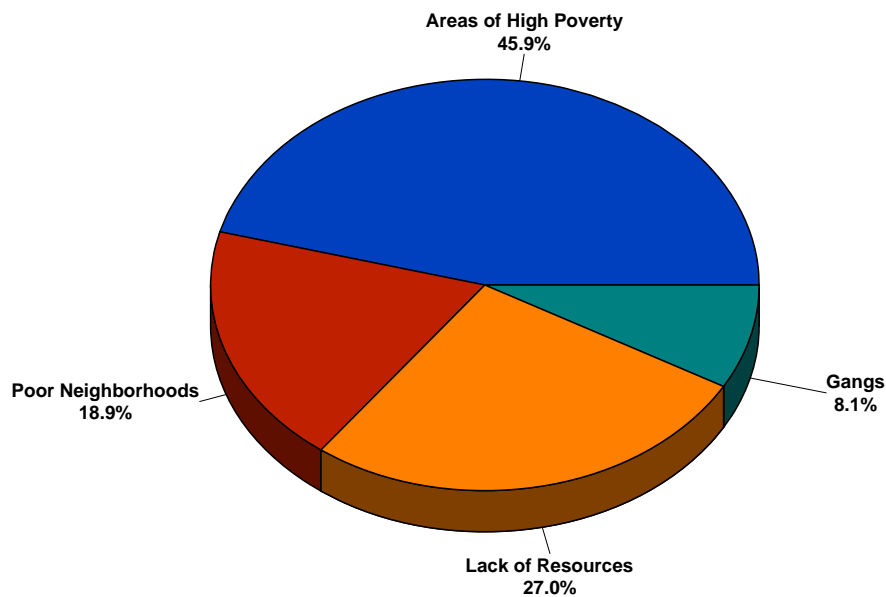


Figure 13. Response Groupings within the Place Domain of Coded Qualitative Responses Regarding Reasons Explaining Minority Youth’s Over-Representation in Transfers to Adult Court. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee’s Juvenile Justice System Survey Results 2012.

In a follow up to determine if transfers were effectively used by the court, respondents were asked if they believed all juvenile court sentences were effective in handling juvenile crime. Many of the responses to this question were not clear, but the team was able to subjectively organize them in four basic categories: *very effective*; *somewhat effective*; *not very effective* and *ineffective*.

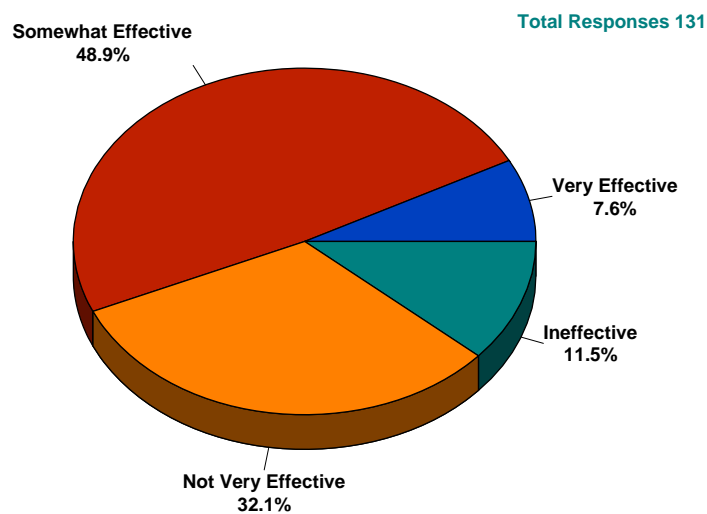


Figure 14. Coded Qualitative Responses Regarding the Effectiveness of Juvenile Court Sentences in Handling Juvenile Crime. Information was obtained by the Tennessee Commission on Children and Youth using the Treatment of Children and Youth in Tennessee's Juvenile Justice System Survey Results 2012.

Only 131 out of 174 responses recorded actually answered the question. Various anecdotal thoughts were submitted for this question including:

- I do not think the court uses all services at their disposal - I think some courts see state custody as punitive and overuse it;
- Many children come out of YDC's and other facilities with little improvement in their behavior. I do not think it is too effective. Too many youth return to court on other charges.



Court should begin to look at our youth as youth and not adult criminals. Too many private corporations are in the justice business for profit. There is a disincentive for less punitive consequence options;

- At times I often feel that the sentences are not as stern as they should be, and then there are other times the sentences for some cases are more stern than needed;
- Juvenile court sentences in our county are not effectively handling juvenile crimes. Political threads that are intertwined in our system appear liken unto a "hidden" gang affiliation. It appears that if a juvenile has ties to, what I will call, the political gang, then sentencing takes a different turn. The sentences appear to depend on how strong a political tie the juvenile has rather than the strength of the case against them; and
- Interesting question since children are supposed to be placed in the custody of the State of Tennessee for rehabilitation and not punishment. The word "sentence" relates to a specified time spent confined as a form of punishment in my mind. For JJ kids, I think that the "sentence" aspect gets lost as their release relates more to how compliant that they are, how competent the JJ worker is, how large the JJ case load is and how much DCS pushes to lighten case loads, how cooperative that families are with treatment recommendation and how agreeable judges are to releases.

**Other Notable Related Factors.** In several questions, respondents were asked to describe the youth or the youth's parents in reference to several related factors that have previously been stated as having an impact on a youth's treatment in the juvenile justice system. The following are the aggregate results for these questions:

- Only one-third of youth involved with the court have actively involved parents;
- 97% stated it makes a major difference if parents are involved;

- 54% of youth and 46% of parents have mental health treatment needs;
- 48% of youth and 52% of parents have alcohol and drug abuse treatment needs; and
- In terms of the environment’s effect on the youth’s behavior, 100% said the home, 95% said school and 94% said the neighborhood was very important.

## Relative Rate Index

Part II of the research questions can be analyzed by calculating the standard Relative Rate Index as discussed in the prior section and as recommended by OJJDP. The following two charts outline the number of youth by race by point of contact with the juvenile justice system and show the relative rates that are significant when compared with white juveniles.

Table 14

*Number of Youth by Race at Various Contact Points with the Juvenile Court.*

	Total Youth	White	Black or African-American	Hispanic or Latino	Asian	Native Hawaiian or other Pacific Islanders	American Indian or Alaska Native	Other/Mixed	All Minorities
1. Population at risk (age 10 through 17)	627,828	473,302	130,982	14,336	6,055	247	1,763	15,479	168,862
2. Juvenile Arrests	N/A								
3. Refer to Juvenile Court	83,986	52,588	24,521	0	249	0	68	1,866	26,704
4. Cases Diverted	28,707	14,034	13,892	0	117	0	25	287	14,321
5. Cases Involving Secure Detention	12,562	5,937	6,148	0	39	0	12	268	6,467
6. Cases Petitioned (Charge Filed)	93,021	60,793	24,257	0	233	0	77	2,455	27,022
7. Cases Resulting in Delinquent Findings	20,367	11,546	8,008	0	42	0	12	396	8,458
8. Cases resulting in Probation Placement	13,603	9,621	3,457	0	55	0	13	237	3,762
9. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	3,050	1,474	1,449	0	4	0	3	81	1,537
10. Cases Transferred to Adult Court	291	69	209	0	0	0	0	6	215
Meets 1% rule for group to be analyzed seperately?		<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	

Table 15

*Relative Rate Index by Race for Youth at Various Contact Points with the Juvenile Court.*

	Black or African- American	Hispanic or Latino	Asian	Native Hawaiian or other Pacific Islanders	American Indian or Alaska Native	Other/ Mixed	All Minorities
2. Juvenile Arrests	--	--	*	*	*	--	--
3. Refer to Juvenile Court	<b>1.68</b>	**	*	*	*	<b>1.08</b>	<b>1.42</b>
4. Cases Diverted	<b>2.12</b>	--	*	*	*	<b>0.58</b>	<b>2.01</b>
5. Cases Involving Secure Detention	<b>2.22</b>	--	*	*	*	<b>1.27</b>	<b>2.15</b>
6. Cases Petitioned	<b>0.86</b>	--	*	*	*	<b>1.14</b>	<b>0.88</b>
7. Cases Resulting in Delinquent Findings	<b>1.74</b>	--	*	*	*	<b>0.85</b>	<b>1.65</b>
8. Cases resulting in Probation Placement	<b>0.52</b>	--	*	*	*	<b>0.72</b>	<b>0.53</b>
9. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	<b>1.42</b>	--	*	*	*	<b>1.60</b>	<b>1.42</b>
10. Cases Transferred to Adult Court	<b>7.59</b>	--	*	*	*	2.15	<b>7.01</b>
<b>Group meets 1% threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>Yes</b>	

This analysis shows there are significant differences in all points of contact within the juvenile justice system for African American, multiple [other/mixed] and all minorities. The largest disparity is transfers to adult court with African-American youth being 7.5 times more likely to be transferred than their White counterparts. As previously stated any rates over 1.0 and are significant illustrate a disparity for the selected race in comparison with their White counterparts. However, on these indicators, the reverse is true for cases diverted and cases resulting in a probation placement. These are considered the more favorable points of contact with the court. For this analysis, cases involving African American youth are two times more likely to be diverted when compared with their White counterparts. When in contrast, these same youth are only as half as likely to get a probation placement as their White counterparts.

## Conclusion/Recommendations

The qualitative and quantitative data analyzed in this Disproportionate Minority Contact Study validate that DMC is indeed a problem in Tennessee, as it is in the nation as a whole. Various organizations in the state, including the Tennessee Commission on Children and Youth, continue to strive to implement strategies in response to the recommendations in the 2003 DMC Study as well as additional efforts and strategies to address DMC. Many of these current initiatives are discussed in Section C of this report, “State and Local DMC Delinquency Prevention and System Improvement Strategies.”

There is an ongoing need to do more to address disproportionality in the juvenile justice system. Those efforts must include implementation of strategies in the other systems that contribute to juvenile justice system DMC: education, health, mental health and substance abuse, child welfare, etc.

Based on the qualitative and quantitative data and other information gleaned through the DMC Study process, the following are recommendations to address the disproportionate contact minority children have with the juvenile justice system in Tennessee.

**Recommendation 1: Ongoing and additional cultural sensitivity/competency training should be provided for all juvenile court stakeholders (judges, staff, district attorney general staff, public defenders and lawyers/guardians ad litem); law enforcement officers, including especially school resource officers; Department of Children’s Services staff; local education agency staff; and other relevant participants in the juvenile justice process.**

There is a need for increased cultural competency/sensitivity trainers and evidence-based training curricula to address disproportionate minority contact with the Tennessee juvenile

justice system. Judge Dwight Stokes, Sevier County Tennessee, has developed a training curriculum he uses entitled “Seeking Justice for All . . . One Child at a Time” with a subtitle of “Attacking Disproportionate Minority Contact: A Juvenile Court Action Plan.” The thrust of Judge Stokes’ training is that each individual involved in any case should ask him/herself “Are my efforts on behalf of this child my very best efforts? Are my efforts good enough for my own child if he/she is in this situation.”

Training should be focused on strategies that ensure fairness and impact outcomes related to DMC. This would include ensuring all parties understand that juvenile courts should be the “great leveler” in Tennessee communities advancing the cause of “justice for all.” It should also include recognition that the goal of the juvenile court should be to engage in the work of “child saving.” One of the stated public purposes of the “Juvenile Courts and Proceedings” section of Tennessee Code Annotated is as follows: “Consistent with the protection of the public interest, remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and substitute therefor (sic) a program of treatment, training and rehabilitation” [TCA 37-1-101(a)(2)]. Juvenile courts do this by intervening in the lives of children and their families in ways that improve their prospects for success in all aspects of their lives. All participants involved with the juvenile courts should understand this purpose and its implicit impact on DMC.

**Recommendation 2: There is a need to ensure due process and the provision of effective legal representation for youth involved with the juvenile justice system, and training is needed to ensure procedural fairness in all juvenile court proceedings, including training for juvenile court judges and staff and for attorneys who represent youth or serve as guardians ad litem.**

In a September 26, 2007 paper entitled “Procedural Fairness: a Key Ingredient in Public Satisfaction,” a “White Paper of the American Judges Association, The Voice of the Judiciary,” the writers documented how Americans are highly sensitive to the concept of procedural fairness. The authors stated that “the perception of unfair or unequal treatment is the single most important source of popular dissatisfaction with the American legal system.” The authors went on to describe how judges can help alleviate much of the “public dissatisfaction with the judicial branch by paying critical attention to the key elements of procedural fairness: voice, neutrality, respectful treatment, and engendering trust in authorities.” The paper also described how judges need to exercise leadership to see that all people with roles in the judicial system carry out their responsibilities fairly and effectively in a way and manner that creates trust for the entire legal system. In the juvenile system, it is crucial that all participants perform their functions in a way that demonstrates procedural fairness and actual fairness in order to enhance the public’s perception of procedural fairness.

The DMC Study survey results make it clear respondents believe the demeanor and attitude a child and the child’s parent(s)/caregiver(s) display are important factors in the way the child is treated in school disciplinary, juvenile court and juvenile justice programs. Whether or not the parent/caregiver is present in court with the child is also a factor. Training for attorneys and guardians ad litem needs to emphasize the importance of these realities so they can in turn stress the importance to their clients of being present in court and interacting with the juvenile court judge and other participants in a respectful manner that would be interpreted as a positive attitude.

The public defender system in Tennessee tends to be seriously overloaded, with little staff time to devote to cases in juvenile court. The hourly rates provided to appointed counsel for

indigent juvenile defendants are minimal. Combined, these factors strain the provision of effective legal representation in juvenile courts in Tennessee. The survey indicated respondents believe adequate legal representation in juvenile court proceedings is present always (22%) or often (35%) only a little more than half the time (57% total). The survey also indicated adequate legal representation in school disciplinary hearings when children are facing expulsion is always (7%) or often (13%) provided in only one in five cases (20% total). This is important because the survey also reports the child's prior school disciplinary history is a factor in the way children are treated.

The provision of legal counsel for children adjudicated delinquent effectively ends, as payment for appointed counsel ends, when the child is adjudicated. This means in a bifurcated hearing to determine disposition, arguably often more important in terms of outcomes for the youth than the determination of guilt or innocence, there is no legal representation. There is also no representation for permanency planning and other critical steps in the juvenile justice system process. Strategies are needed to ensure fairness and due process are available to youth at all stages of the juvenile justice system.

Juvenile justice professionals and attorneys also need training regarding special education and disability law so they can effectively advocate for appropriate educational interventions for young people who have disabilities or other special education needs. Data analysis indicated adolescents in Tennessee who are adjudicated delinquent and committed to the Department of Children's Services disproportionately have learning disabilities and mental health diagnoses. A child who is involved with the juvenile justice system and has special education needs should be carefully evaluated, and all available resources utilized to ensure he/she receives the individual attention deserved from the court system, school system and at home.

**Recommendation 3: Law enforcement officers, including school resource officers, should receive additional training regarding the impact of juvenile justice system involvement on children, and they also should be provided with additional strategies and resources to minimize juvenile court involvement and especially to avoid unnecessary juvenile detention.**

Analysis of juvenile court referral data in Tennessee indicated law enforcement is the primary source of referrals to juvenile court. The data were not sufficiently detailed to determine the proportion of law enforcement referrals made by school resource officers versus regular law enforcement. As previously mentioned, law enforcement officers need cultural sensitivity/competency training. They also need training on the impact of juvenile justice system involvement on long-term outcomes for children and the importance of equitable treatment.

Law enforcement also needs training regarding alternative strategies to protect public safety without taking children to detention in cases that are not serious or violent. This should include greater use of citation programs, which, much like a traffic ticket, require a young person to appear before the court, but avoid detention unless the youth fails to appear in court. There is also a need for other alternatives for law enforcement to provide intervention without juvenile court involvement. Truancy and student assistant centers should be expanded to other locations beyond Nashville and Memphis, where they currently exist, with expanded hours for new and existing programs. Their availability for other status offenses and even minor delinquent offenses would be helpful. This would be beneficial for law enforcement, juvenile courts and youth/families. Strategies should focus on alternatives to transporting youth to juvenile detention/court and alternatives that focus on identifying and accessing needed interventions to address underlying problems.



**Recommendation 4: Department of Education (DOE) and Local Education Agency (LEA) engagement is needed to address the underlying factors in DMC and facilitate the receipt of appropriate educational services to provide children, including those involved with the juvenile justice system, with opportunities to be successful in school and in life.**

Data analysis reveals schools are a significant referral source for juvenile courts, second only to law enforcement in the number of referrals. The experience with the School House Adjustment Program Enterprise of the Memphis City Schools demonstrates that local educational agencies can implement strategies to handle school behavior problems within the school system rather than referring children unnecessarily to the juvenile courts. Children with special education needs are at increased risk of juvenile justice system involvement, as their behavior is often a manifestation of their disabilities. Some reports suggest school systems regularly get around special education laws requiring “manifestation” hearings for special education students by having school resource officers intervene and/or file petitions in juvenile court rather than local education agency employees.

In addition to training in cultural sensitivity/competency, DOE and LEA staff, and especially school resource officers, need to receive training regarding the adverse impact unnecessary juvenile justice system involvement has on children and regarding evidence-based strategies to improve school climate and manage school behaviors to better keep children in and succeeding in school. DOE and LEA staff members need to be involved in state-level and local community planning and program development strategies, including efforts specifically focused on strategies to reduce DMC.

**Recommendation 5: Sufficient mental health and substance abuse prevention and treatment services for children and their parents should be available to address underlying factors related to DMC.**

Mental health and substance abuse treatment needs of parents/caregivers and children are significant factors in involvement with the child welfare and juvenile justice systems. The survey data indicate respondents believe suspicion drugs or alcohol use perception of mental health treatment needs are factors that influence how children are treated in school disciplinary, juvenile court and other juvenile justice programs. The survey also has similar findings related to whether the parent or caregiver is suspected of using drugs and alcohol. The survey indicated parental mental health treatment need is a less important factor.

Availability of adequate assessment of children and parents/caregivers when they are involved with the juvenile justice system is essential in identifying the underlying causes of problems and behaviors related to system involvement and obtaining appropriate interventions to address the circumstances. Expansion of the Tennessee Integrated Court Screening and Referral Project using the Child and Adolescent Strengths and Needs (CANS) instrument in additional counties would be an excellent strategy for improving access to adequate mental health and substance assessments for children involved with the juvenile courts.

Ready availability of evidence-based mental health and substance abuse prevention programs and treatment services would facilitate access to appropriate interventions to both prevent juvenile justice system involvement and as dispositions following such involvement. When mental health and/or substance abuse treatment needs are the underlying factors in delinquency, and thereby DMC, effective treatment is the most appropriate response.

**Recommendation 6: Strategies to strengthen parenting skills and increase parental involvement in the lives of their children, especially as they interface with schools and if they interface with the juvenile justice system, are needed to improve outcomes and reduce DMC.**

The development of healthy, well adjusted children who are prepared to succeed in school and engage in constructive activities that help keep them out of the juvenile justice system begins early in life. Home visitation programs that serve expectant mothers and new parents are important strategies in helping parents have the skills they need to encourage healthy cognitive, social and emotional development in their children that prepares them for success in school and in life. Research shows quality home visiting programs reduce child abuse and neglect and infant mortality and increase immunizations and parent's knowledge of children's developmental needs. Some models even improve outcomes for parents, including their involvement in work and avoidance of justice system involvement. Evidence-based home visiting programs should be an integral part of strategic efforts to improve outcomes for Tennessee's youngest children, and especially made available to at-risk young children, including those in poverty. Brain development research makes clear the value of investing in young children, and providing young children with a positive start in life improves the prospects they will not be involved with the juvenile justice system and therefore not subjected to DMC.

Family Resource Centers (FRCs) are state-local and often public-private partnerships working to improve education opportunities and achievement among at-risk students and their families. There are Family Resource Centers in 68 counties serving as liaisons between and among children, families, local schools and local social service agencies. FRCs increase access to services for at-risk children and improve academic outcomes. These programs help children

and families succeed and, thereby, avoid juvenile justice system involvement and DMC. They should be continued and expanded so more at-risk children and families in all 95 Tennessee counties have access to these services.

**Recommendation 7: Improved coordination and information sharing among all relevant parties in the juvenile justice system (juvenile courts, Department of Children’s Services, service providers and local education agencies) facilitates the identification of underlying issues and the provision of appropriate services for improved outcomes.**

Information sharing, communication and coordination in the identification of underlying issues and the development of appropriate plans to address those issues is fundamental to improving outcomes for children and families involved with the juvenile justice system. Interagency collaboration is essential to avoid duplication of services and/or critical needs falling through the cracks. Use of the Child and Adolescents Strengths (CANS) instrument facilitates communication across agencies and the use of a common language. As data systems evolve, efforts should be made to explore and implement cross agency access and use to reduce unnecessary duplication and provide ready retrieval of needed information. Those systems need to ensure appropriate confidentiality “firewalls”, but they should be structured to provide maximum data sharing when confidentiality is not an issue.

**Recommendation 8: State and Local DMC Task Forces and other groups focused on addressing DMC need to be strengthened and expanded into all areas in Tennessee.**

There must be greater intentionality in addressing disparities in all forms to improve the opportunities for all children, especially minority children, to be safe, healthy, educated, supported and nurtured, and engaged in productive activities that help them succeed in school,

avoid juvenile justice system involvement and become good parents and productive employees in the future. The Tennessee Commission on Children and Youth should be intentional in efforts to focus on DMC through support for the State and Local DMC Task Forces and through Regional Councils on Children and Youth efforts to focus on issues that impact DMC. The involvement of representatives of all systems that impact DMC on task forces and other groups addressing DMC is critical to ensuring a broad focus and efforts to intervene and prevent DMC at the earliest possible stage.

**Recommendation 9: Improved understanding of the realities of juvenile delinquency and the effect individual stakeholders can have in improving outcomes for youth could improve societal and system responses and efforts to reduce DMC.**

Individual stakeholders in the juvenile justice system and its “feeder systems” (education, health, mental health and substance abuse, child welfare) need to understand the importance of treating all individuals they serve with respect. They should individualize and particularize the case of each child to address the issues in each child’s life to improve his/her quality of life, to eliminate inhumane treatment and to create truly productive citizens. Stakeholders need to understand that a focus on DMC is not necessarily an indictment of their individual approach or actions; rather it is a reminder we all need to focus on ensuring each child is treated fairly and provided the same opportunities for success we would want for our own children.

A focus on DMC also provides an opportunity for stakeholders to recognize that underlying causes/correlates of DMC, especially poverty, are not the fault of individuals, and that stakeholders should make special efforts to recognize the adverse impacts and assist in overcoming the barriers these foundational causes present. The historical implications of

poverty and segregation continue to provide institutional structures that contribute to DMC, so intentional efforts to mitigate these adverse influences is critical in reducing DMC.

Public perceptions of juvenile delinquency are reflected in the belief of survey respondents that serious, violent juvenile crimes are increasing (51%). In fact, in Tennessee, and nationally, serious, violent juvenile crime has been decreasing, a belief reported by only 12 percent of survey respondents. Unfortunately, the public media, especially television, may be a major contributor to the perception of increasing juvenile crime. There appear to be more reports when crimes are committed by youth, and the incident tends to be reported multiple times (when it happens, when the youth is arrested, at the detention hearing, at the adjudicatory hearing, at the disposition hearing, during/at the end of placement), so individuals who are not paying very close attention are left with the perception that each report is a new juvenile crime.

## **Conclusion**

Undoubtedly, juvenile delinquency continues to be a serious problem, and one that should be addressed through evidence-based strategies that improve community safety and rehabilitation for youth. Public fears and misperceptions should not drive public policy in the juvenile justice arena because scientific research now tells us what works in the overwhelming majority of cases. Implementation of evidence-based delinquency prevention and intervention programs is good for community safety, good for youth who are involved with the juvenile justice system, and good for reducing disproportionate minority contact with the juvenile justice system.

As previously indicated, Tennessee has made significant strides in implementing the recommendations in the 2003 DMC Study as well as implementing other strategies to reduce disproportionality in the juvenile justice system in Tennessee, but much work remains to be

done. The Tennessee Commission on Children and Youth cannot address DMC alone. Many of the recommendations in this study require substantial coordination across departmental and system boundaries. Children do not live in silos, so the systems that are designed to meet their needs cannot function optimally in silos. TCCY stands ready to work with all interested parties in efforts to reduce DMC in Tennessee.

Implementation of the recommendations in this report would do much to address disparities and to improve the opportunities for all children, especially minority children, to be safe, healthy, educated, supported and nurtured, and engaged in productive activities that help them succeed in school, avoid juvenile justice system involvement, and become good parents and productive employees in the future. Working together, Tennesseans can make a difference in ensuring equitable treatment for all children.





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# Appendices





## **Appendix I**

### **Dataset Components from the Administrative Office of the Courts**



**JUVENILE COURT DATA FILE LAYOUT**  
(Record Length 163)

<u>Position</u>	<u>Item</u>	<u>Length/Type</u>		<u>Valid Ranges</u>
<b>1 - 2</b>	<b>A. Court</b>	<b>2</b>	<b>N</b>	<b>01-98, <u>pull if blank</u></b>
3 - 8	Form Identification Number	6	N	stamped on form
<b>9 - 21</b>	<b>B. Child Identification Number</b>	<b>13</b>	<b>C</b>	<b>left align, <u>pull if blank</u></b>
<b>22 - 29</b>	<b>C. Date of Referral</b>	<b>8</b>	<b>D</b>	<b>mmddyyyy, <u>pull if blank</u></b>
30	D. Delinquent Offenses	1	N	1-2
31	Drug & Alcohol Offenses		1	N 1-2
32	Status Offenses	1	N	1-2
33	Dependency/Neglect	1	N	1-2
	<b>E. Referral Reasons</b>			01-82, 99
34 - 35	Reason 1	2	N	
36 - 37	Reason 2	2	N	
38 - 39	Reason 3	2	N	
40 - 41	Reason 4	2	N	
42 - 43	Reason 5	2	N	
	<b>F. Referral Source</b>			01-15, 77, 99
44 - 45	Source 1	2,	N	
46 - 47	Source 2	2	N	
48 - 49	Source 3	2	N	
50 - 51	Source 4	2	N	
52 - 53	Source 5	2	N	
	<b>G. Intake Action</b>			01-07, 77,88,99
54 - 55	Intake 1	2	N	
56 - 57	Intake 2	2	N	
58 - 59	Intake 3	2	N	
60 - 61	Intake 4	2	N	
62 - 63	Intake 5	2	N	
	<b>H. Amended Charge</b>			01-82, 99
64 - 65	Charge 1	2	N	
66 - 67	Charge 2	2	N	
68 - 69	Charge 3	2	N	
70 - 71	Charge 4	2	N	
72 - 73	Charge 5	2	N	
	<b>I. Formal/Informal Actions</b>			01-14, 99
74 - 75	Action 1	2	N	
76 - 77	Action 2	2	N	
78 - 79	Action 3	2	N	
80 - 81	Action 4	2	N	
82 - 83	Action 5	2	N	

	<b>J. Action Executed By</b>			1-3, 9
84	Executed By 1	1	N	
85	Executed By 2	1	N	
86	Executed By 3	1	N	
87	Executed By 4	1	N	
88	Executed By 5	1	N	
	<b>K. Date of Disposition or Informal Adjustment</b>			<b>mmddyyyy, <u>pull if blank</u></b>
89 – 96	Disposition Date 1	8	D	
97 – 104	Disposition Date 2	8	D	
105 – 112	Disposition Date 3	8	D	
113 – 120	Disposition Date 4	8	D	
121 – 128	Disposition Date 5	8	D	
	<b>L. Case Outcome(s)</b>			01-63, 99
129 – 130	Outcome 1	2	N	
131 – 132	Outcome 2	2	N	
133 – 134	Outcome 3	2	N	
135 – 136	Outcome 4	2	N	
137 – 138	Outcome 5	2	N	
139 – 140	Outcome 6	2	N	
141 – 142	Outcome 7	2	N	
143 – 144	Outcome 8	2	N	
145	<b>M. Type of Detention</b>	1	N	1-9
146	<b>N. Placement After Secure Detention</b>	1	N	1-9
147 – 154	<b>O. Date of Birth</b>	8	D	mmddyyyy
155	<b>P. Sex of Child</b>	1	N	1-2, 7
156	<b>Q. Race of Child</b>	1	N	1-5, 7
157	<b>R. Hispanic Origin</b>	1	N	1-2, 7
158 - 159	<b>S. Living Arrangement</b>	2	N	01-12, 77, 99
160	<b>T. School Status</b>	1	N	1-2, 7
161 - 162	<b>U. Last Grade Completed</b>	2	C	01-16, 77, 99, 0Y, 0P, 0K
163	<b>V. Special Education</b>	1	N	1-2, 7

\*Type = N – Numeric  
D - Date  
C – Character

## **Appendix II**

# **Survey of Treatment of Children and Youth in Tennessee's Juvenile Justice System**



# Survey of Treatment of Children and Youth in Tennessee's Juvenile Justice System

In order to continue receiving Federal Juvenile Justice Delinquency Prevention Act grant funds, the Tennessee Commission on Children and Youth (TCCY) is periodically required to look at the treatment of children in juvenile court and the juvenile justice system. The following survey will assist TCCY in assessing the overall factors possibly influencing a child's treatment. Thank you for your willingness to assist us with this process. This survey is completely anonymous. Information will be provided at the end of the survey on how you can obtain additional information.

1. What best describes your primary role in working with children with whom you may come in contact within the school, community, court or juvenile justice system. At this time, TCCY only seeks to obtain responses from individuals who come in contact with children and youth in the following categories or roles. (Only One Answer Allowed)

## **COURT:**

- Judge/Magistrate
- Public Defender
- District Attorney
- Guardian ad Litem/Defense Attorney
- Law Enforcement
- Youth Service Officer
- Probation Officer

## **SCHOOL:**

- School Resource Officer
- School Counselor
- School Disciplinary Officer
- School Teacher
- School Administrator/Principal

## **CHILD WELFARE:**

- Juvenile Justice/Child Welfare Staff with the Department of Children Services
- Foster Care Review Board Member

## **COMMUNITY:**

- Parent/Resource Parent
- Youth
- Community Service Provider

2. If you check Community Service Provider, please describe the type of service you provide to children and youth who have been/are involved with juvenile court/juvenile justice system:

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3. Are you currently, or have you ever been, involved with:

GROUP	Previous Involvement	Current Involvement	No Involvement
Department of Children’s Services Community Advisory Board			
Child Protective Investigative Team (CPIT)			
TCCY Regional Council			

4. Are you currently, or have you ever, worked with children and youth who have been/are involved with juvenile court/juvenile justice system?

- a. Previously Involved
- b. Currently Involved
- c. Never Been Involved

5. Are you currently or have you ever been a foster/resource parent

- a. Current Foster/Resource Parent
- b. Former Foster/Resource Parent
- c. Does Not Apply

6. Please rate how strongly you believe these factors influence how a child is/may be treated in school disciplinary, juvenile court and/or juvenile justice settings. For example, if you believe a child’s age strongly influences how he/she will be treated answer a 4. If you believe a child’s educational level has little influence answer a 1.

FACTOR	1 (LESS IMPORTANT)	2	3	4 (MORE IMPORTANT)
<b>CHILD:</b>				
Age of the child				
Race/Ethnicity of the child				
Whether the child is male or female				
The child’s educational level				
Child’s demeanor and/or level of respect				
Child’s style and manner of dress				
The seriousness of the offense charged				
<b>CHILD’S HISTORY:</b>				
Whether the child has a mental health diagnosis				



or has/is receiving mental health treatment				
Whether the child is suspected of using/has used drugs and/or alcohol				
Whether the child is involved in a gang				
Child's prior disciplinary/juvenile court history				
Whether the child has a physical disability				
Whether the child has a developmental and/or intellectual disability				
Whether the child is in special education				
The child's engagement in school and/or extra curricular activities				
Whether the child is a parent and has children				
Whether the child is a victim of abuse				
Whether the child is currently/or has been in the custody of the state				
<b>PARENTS/CAREGIVERS SUPPORT:</b>				
Whether or not the parent/caregiver is involved in the child's school/court				
Parent/caregiver's demeanor and/or level of respect				
Parent/caregiver's style and manner of dress				
Socioeconomic status of the child/family				
Whether the parent/caregiver has a mental health diagnosis or has/is receiving mental health treatment				
Whether the parent/caregiver is suspected of using/has used drugs and alcohol				
Parent's/Siblings' prior disciplinary/court history				
Whether the parent/caregiver is employed				
Whether the parent/caregiver has a physical disability				
Whether the parent/caregiver has a developmental and/or intellectual disability				
<b>OTHER:</b>				
Whether the child has legal representation				
Prior history with the child's legal representative				
Living arrangements of the child (i.e., two-parent, single-parent, relatives, foster care, homeless)				
Whether the child has an extended support system of family and/or community members				

7. How important do you believe the race of a child is to the likelihood that he/she will be:

<b>FACTOR</b>	<b>1 (LESS IMPORTANT)</b>	<b>2</b>	<b>3</b>	<b>4 (MORE IMPORTANT)</b>
Referred to juvenile court				
Adjudicated as a delinquent				
Committed to secure confinement				
Transferred to adult court				

8. In your opinion, what are the characteristics of a child most likely to create a POSITIVE impression on you?

9. In your opinion, what are the characteristics of a child most likely to create a NEGATIVE impression on you?

10. In your opinion, what are the characteristics of a parent/caregiver most likely to create a POSITIVE impression on you?

11. In your opinion, what are the characteristics of a parent/caregiver most likely to create a NEGATIVE impression on you?

12. To what extent are you aware of any situations where parents/caregivers have been encouraged to refer a child to juvenile court/state's custody to receive services?

<b>1 (NOT AWARE OF ANY SITUATIONS)</b>	<b>2</b>	<b>3</b>	<b>4 (AWARE OF SITUATIONS FREQUENTLY)</b>

a. Please explain your response.

--

13. To what extent do you believe the relationship between the school system and juvenile court impact the number and type of referrals the school makes to the court?

<b>1 (NO IMPACT)</b>	<b>2</b>	<b>3</b>	<b>4 (GREAT IMPACT)</b>
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a. Please explain your response.

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14. To what extent do you believe children receive adequate legal representation in school disciplinary or juvenile court proceedings when appropriate?

<b>1 (NEVER HAVE ADEQUATE LEGAL REPRESENTATION)</b>	<b>2</b>	<b>3</b>	<b>4 (ALWAYS HAVE ADEQUATE LEGAL REPRESENTATION)</b>	<b>Not Applicable</b>
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a. Please explain your response.

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15. What do you think are the primary causes of juvenile crime and delinquency in your region/county?

1.	4.
2.	5.
3.	6.

16. To what extent do you believe the following factors influence transfer of a child to adult criminal court?

<b>FACTOR</b>	<b>1 (LEAST IMPORTANT)</b>	<b>2</b>	<b>3</b>	<b>4 (MOST IMPORTANT)</b>
Child will age out of the juvenile justice system prior to serving an appropriate length of time				

Race/Ethnicity				
Seriousness of offense				
Extensive history/repeat offender				
Gang involvement				
Family environment/circumstances				
Socioeconomic status				
Cost to the county to detain the child in the juvenile justice system				
Legal representation				
Other				

a. If other, please explain.

17. Do you believe serious, violent juvenile crimes are increasing?

18. Do you consider the judicial waiver process as an effective means of handling serious, violent juvenile offenders? If so, please explain why. If not, please explain why not.

19. To what extent, do you believe juvenile court sentences are effective in handling juvenile crimes?

20. Do you believe juvenile court sentences should be the same as adult court sentences? Why or Why not?

21. What could be the explanation for why the majority of juvenile transfers are minorities?

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22. Who do you believe should be responsible for educating the juvenile court judge about placement options for a child?

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23. Concerning the children you work with who are involved in juvenile court or disciplinary hearings, what percentage do you believe have actively involved parents?

<b>0-10%</b>	<b>11-25%</b>	<b>26-50%</b>	<b>51-75%</b>	<b>76-100%</b>
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24. How important do you think it makes a difference if the parents are involved?

<b>1 (NOT IMPORTANT)</b>	<b>2</b>	<b>3</b>	<b>4 (VERY IMPORTANT)</b>
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25. Concerning the children you work with, what percentage do you believe have mental health treatment needs?

<b>0-10%</b>	<b>11-25%</b>	<b>26-50%</b>	<b>51-75%</b>	<b>76-100%</b>
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26. Concerning the parents of the children you work with, what percentage do you believe have mental health treatment needs?

<b>0-10%</b>	<b>11-25%</b>	<b>26-50%</b>	<b>51-75%</b>	<b>76-100%</b>
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27. Concerning the children you work with, what percentage do you believe need alcohol and drug abuse treatment?

<b>0-10%</b>	<b>11-25%</b>	<b>26-50%</b>	<b>51-75%</b>	<b>76-100%</b>
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28. Concerning the parents of the children you work with, what percentage do you believe need alcohol and drug abuse treatment?

<b>0-10%</b>	<b>11-25%</b>	<b>26-50%</b>	<b>51-75%</b>	<b>76-100%</b>
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29. How important do you believe the home environment is to a child's overall behavior?

<b>1 (NOT IMPORTANT)</b>	<b>2</b>	<b>3</b>	<b>4 (VERY IMPORTANT)</b>
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30. How important do you believe the neighborhood environment is to a child's overall behavior?

<b>1 (NOT IMPORTANT)</b>	<b>2</b>	<b>3</b>	<b>4 (VERY IMPORTANT)</b>
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31. How important do you believe the school environment is to a child's overall behavior?

<b>1 (NOT IMPORTANT)</b>	<b>2</b>	<b>3</b>	<b>4 (VERY IMPORTANT)</b>
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32. What do you think are the primary causes of juvenile crime in your county?

1.	4.
2.	5.
3.	6.

33. What other factors do you believe are important in a child's treatment in your system?

1.	4.
2.	5.
3.	6.

34. In order to assist TCCY in future data collection efforts, are there any questions/categories, you would add, change, or remove from this survey

In an effort to have general information about the persons who have completed this survey, please take a moment to answer the following demographic information:

1. What is your current age?

<b>10-18</b>	<b>19-25</b>	<b>26-40</b>	<b>41-65</b>	<b>66+</b>
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2. How would you describe your race/ethnicity?

<b>WHITE</b>	<b>BLACK</b>	<b>ASIAN/PACIFIC ISLANDER</b>	<b>AMERICAN INDIAN</b>	<b>HISPANIC</b>
<b>MIXED RACE</b>	<b>OTHER</b>			

3. Are you:

<b>MALE</b>	<b>FEMALE</b>
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4. What is your current educational level?

<b>SOME HIGH SCHOOL</b>	<b>HIGH SCHOOL DIPLOMA/GED</b>	<b>SOME COLLEGE</b>	<b>ASSOCIATE'S DEGREE</b>	<b>BACHELOR'S DEGREE</b>
<b>MASTER'S DEGREE</b>	<b>DOCTORATE DEGREE</b>	<b>TECHNICAL SCHOOL CERTIFICATE</b>		

5. How long have you been in your current role (the primary role you list at the beginning of the survey)?

<b>Less than 1 year</b>	<b>1-5</b>	<b>5-10</b>	<b>10-20</b>	<b>20+</b>
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6. How long have you been working with children and youth?

<b>Less than 1 year</b>	<b>1-5</b>	<b>5-10</b>	<b>10-20</b>	<b>20+</b>
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7. What region(s) do you work/live? (please select all that apply)

<b>MEMPHIS/SHELBY COUNTY</b>	<b>SOUTHWEST</b>	<b>NORTHWEST</b>	<b>NASHVILLE</b>	<b>MID-CUMBERLAND</b>
<b>SOUTH CENTRAL</b>	<b>UPPER CUMBERLAND</b>	<b>KNOXVILLE</b>	<b>EAST/SMOKY MOUNTAIN</b>	<b>CHATTANOOGA</b>
<b>SOUTHEAST</b>	<b>NORTHEAST</b>			

Thank you for taking the time to complete the survey and provide feedback to the Tennessee Commission on Children and Youth. If you would like more information about TCCY, please visit our webpage at [www.tn.gov/tccy](http://www.tn.gov/tccy). If you would like results from this survey or have any study-related questions, please contact Debrah Stafford at [debrah.stafford@tn.gov](mailto:debrah.stafford@tn.gov) or call 615-741-2633.





## **Appendix III**

### **Executive Summary:**

*Assessment of Disproportionate Minority Confinement in Tennessee's  
Juvenile Justice System (2003)*



# Assessment of Disproportionate Minority Confinement in Tennessee’s Juvenile Justice System

## I. Executive Summary

**This research project is sponsored by the Tennessee Commission on Children and Youth, pursuant to a federal mandate, to assess the extent and causes of disproportionate confinement of minority youth in the Juvenile Justice System in seven Tennessee counties.<sup>1</sup>**

Prior TCCY research into the existence of DMC in Tennessee had revealed significant DMC in the following five counties: Shelby, Davidson, Knox, Madison, and Hamilton. Blount and Washington counties were then included in this research, because prior TCCY research had revealed that these counties do not disproportionately confine their minority youth and the Commission hoped to find out why.<sup>2</sup>

In the course of the research leading to this report, the Office of Business and Economic Research (OBER) encountered a significant number of delays and obstacles before the necessary raw data could be obtained to conduct the necessary quantitative analysis and the qualitative research. Once the data were obtained, it became apparent that there were significant gaps in the data that would prevent investigation of some of the research hypotheses.<sup>3</sup> The quantitative portion of the research required that the data for 2000, once obtained, be analyzed systematically utilizing multiple regression techniques and other statistical manipulation tools to isolate causes and correlates of disproportionate minority confinement (DMC). Because the total number of

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<sup>1</sup> This project was supported by a competitive grant (DMC-101-02) from the Tennessee Commission on Children and Youth (TCCY), but its contents are the responsibility of the author. While TCCY Juvenile Justice staff members were given the opportunity to comment on working drafts of this report, and the contents were altered based upon those comments, the contents, nevertheless, do not necessarily reflect the views of the Commission itself.

<sup>2</sup> Certainly Blount and Washington counties have smaller overall minority populations than the other counties that are the subjects of this research (Shelby, Davidson, Knox, Madison, and Hamilton), but as the definition of overrepresentation below suggests, when TCCY found that Blount and Washington did not disproportionately confine their minority youth, it means there is not a larger proportion of a minority youth “present at various stages within the juvenile justice system (such as intake, detention, adjudication, and disposition) **than would be expected based on their proportion in the general population**” (emphasis added). Blount and Washington counties were, in fact, included in this research by TCCY in an effort to find out what was so different in these counties that they are not experiencing DMC.

<sup>3</sup> See the Brief Project History section below for more details about the obstacles and delays, and see the Findings and the Limitations sections below for more detail about the data deficits and the effect they had on investigation of several of the hypotheses.

cases in which juveniles were either committed to the custody of the Department of Children's Services (DCS) or were transferred to adult criminal court in 2000 was significantly smaller than the number of cases in which juveniles were otherwise handled, the necessary quantitative and statistical analysis could not be performed for cases in these categories; qualitative research was, therefore, necessary to examine the cases in these two categories.

The qualitative portion of the research, which relied upon case studies,<sup>4</sup> interviews, and focus groups in the selected counties, allowed for a consideration of factors at work in the cases of individual juveniles that can be critical to understanding the causes for DMC. These case studies, and more specifically the individual file reviews, allowed for consideration of a number of intervening variables that the quantitative research could not detect, variables that may act, independent of race, as risk or mitigating factors for delinquency, adjudication, and confinement. Furthermore, the researchers conducting these file reviews were able to examine the complete offense record of the individual juveniles in the samples for each county, sometimes over the course of 10 or more years and 10 or more appearances before the Juvenile Court. The quantitative research, on the other hand, was necessarily confined to the snapshot of what happened to a juvenile in one calendar year, the year 2000, because that is all the data could provide. Through these file reviews, as the critical part of the case studies, it was possible to see the evolution of a given juvenile's relationship with the Juvenile Court in a specific county and so to better understand the motivations of both the juvenile and the decision makers.

The quantitative methodologies employed in this research used three separate but related strands of analyses: (1) cross-tabulations; (2) one-way analyses of variance (ANOVA), primarily attempting to examine if race is a significant variable; and (3) logistic regression analysis to identify and determine the factors that influence the probabilities of disproportionate minority confinement. As is evident from the literature on DMC, disproportionate minority confinement is manifested in a variety of ways. To the extent quantitative data was available for the study area (i.e., the seven counties) DMC was captured in at least five different ways: (1) DMC1 captures the type of detention before the hearing; (2) DMC2 captures placement after secure

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<sup>4</sup> As will be explained below, the case studies eventually were reduced in scope so that they consisted only of the individual Juvenile Court case file reviews; interviews with Juvenile Justice System personnel about general topics related to DMC and juvenile delinquency rather than case-specific information; and Focus Group meetings with juveniles and their parents.

detention hearing; (3) DMC3, a proxy for secure confinement to the Department of Children Services; (4) DMC4 refers to the juveniles who are transferred to adult court; and last but not least, (5) DMC5 referring to DCS commitment/custody<sup>5</sup>. Note that **all these variables reflecting disproportionate minority confinement are dependent on various risk and protective factors as well as on the socioeconomic conditions of the children and their families**. Thus to test the proposed hypotheses we used a logistic regression model and obtained results that are reported in this study.

As a result of the different methodologies employed, **the quantitative research and the qualitative research sometimes agreed in the conclusions reached but sometimes yielded different conclusions relative to the research hypotheses**. What follows is a summary review of the findings relative to each of the research hypothesis that could be tested from both the quantitative and qualitative portions of this research:

First, **the research uniformly found that unemployment appears to be positively correlated to DMC**. The quantitative analysis had to rely on two proxy variables for unemployment, because unemployment data was not directly available from the Juvenile Justice Systems database. These proxy variables were (1) percent of households below poverty line for the census block where the juvenile's address was recorded; (2) percent of single-parent headed households for the census block where the juvenile's address was recorded. Based on these two variables, **the quantitative analysis found a positive correlation between unemployment and DMC and, correspondingly, that employment/income does indeed reduce DMC**.

Likewise, the qualitative research had difficulty addressing this issue directly, because the data relating to employment of the juvenile and/or his or her parents was often absent in the juvenile court files, but did find, anecdotally, that a significant number of the single parents of juveniles who were committed to DCS custody for delinquency were unemployed or minimally employed. In terms of income more generally, if poverty is measured by whether or not a household receives public assistance or qualifies as indigent for the purposes of the appointment of counsel or representation by the public defender, **it is possible to say that poverty is certainly positively correlated with commitment to DCS for delinquency and transfer to**

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<sup>5</sup> For exact definition and construction of these variables see Table A1 in Appendix A.

**adult court. In fact, under this definition, in some counties 100% of the juveniles committed for delinquency came from “Poverty,”<sup>6</sup> and the number is relatively high in all of the counties.<sup>7</sup>**

Similarly, the data regarding the education level of the parents of juveniles was sporadic at best, but, to the extent it was available, **both the quantitative analyses and the qualitative research suggest that there is strong evidence of positive correlation between lack of education and DMC and a corresponding positive correlation between reduction of DMC and higher education.**

Regarding the hypothesis that single parenthood (and particularly juveniles living in households headed by single mothers) is positively correlated with DMC, the quantitative research found that there is strong evidence to suggest it is. **Likewise, the qualitative research also suggests that single-parenthood, and particularly living with the mother only, is strongly correlated with commitment to DCS custody and transfer to adult court.** In one county, 100% of the juveniles who were committed to DCS custody were from single-parent households,<sup>8</sup> and the percentage of juveniles committed to DCS and from single-parent households was above 50% in all of the subject counties. The quantitative analyses also suggests that there is strong evidence of positive correlation between lack of education and DMC, and the qualitative research seems to support this finding anecdotally. **In turn both portions of the research also supported the finding that a more traditional family structure, with two parents, is negatively correlated with DMC.**

Regarding the question of whether the Juvenile Justice System in Tennessee is guided by objective criteria and what role race played in the decisions made in that system, the quantitative and qualitative research yielded dramatically different results. **The quantitative research [examination of aggregate data for all juvenile court cases for 2000 in the study counties]**

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<sup>6</sup> See Washington County findings for Committed Cases above.

<sup>7</sup> The percentage of juveniles committed to DCS custody for delinquency who came from households either receiving public assistance or that qualified as “indigent” for the purposes of being eligible to be represented by the Public Defender or Court appointed legal counsel was, for example, 77% in Davidson County.

<sup>8</sup> See Madison County findings for Committed Cases below.

**for specifically found race to play a significant part in the referral and intake process, and the qualitative research could not address these referral issues. The quantitative research also seems to support the finding that race does have a significant correlation with adjudication, with disposition generally, and with detention/incarceration specifically.** The qualitative research could not address all of these issues directly, because of the more limited scope of that research. In response to the question of whether race affects adjudications, however, **the answer that the qualitative research [more intensive study of randomly selected individual cases] provides is that race does not appear to have any significant correlation with the decision of the Juvenile Court judge or referee whether or not to detain juveniles pretrial; commit juveniles to DCS custody for delinquency; or to transfer juveniles to adult court.**<sup>9</sup>

The Juvenile Court judges named the following factors as weighing in the decision whether or not to adjudicate a child as delinquent (the nature of the offense was omitted from their consideration):

- The evidence in the case/guilt of the juvenile;
- Social and criminal history of the juvenile;
- Past efforts by juvenile and family to eliminate the problem;
- Family attitude and cooperation/parental involvement/support system<sup>10</sup>;
- Degree of need for treatment/rehabilitation;
- Involvement with drugs and/or alcohol;
- The age of the juvenile;
- Whether the juvenile is repentant;
- School behavior and performance; and
- The opportunities in the community.

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<sup>9</sup> Remember that under Tennessee law, a Juvenile Court judge can detain a juvenile pretrial and can *recommend* to DCS that a juvenile be placed in a secure facility once in DCS custody. However, the ultimate determination about the type of placement or facility for a given juvenile is made by DCS and DCS alone.

<sup>10</sup> The qualitative research has found that the limitation of home and family placement options created by poverty, family dysfunction, and family dislocations seem to affect this factor. To the extent these elements may be more prevalent in minority communities, race then becomes a correlate in adjudication and placement decisions.

**In response to the question of whether race was a significant determining factor in these decisions, the findings in most of the counties revealed anecdotally that minority juveniles were not confined pretrial in percentages significantly higher than their representation in the sample population.**<sup>11</sup> The factors that did seem most often determinative were as follows:

- Nature of the offense;
- Age and offense history of the juvenile;
- Available alternatives to commitment or transfer including stability of the home and community environment;
- Use of a weapon, especially a gun;
- Whether the offense involved drugs, particularly the intent to sell drugs;
- Frequency of offenses;
- Escape history of the juvenile.<sup>12</sup>

Finally, regarding the question of whether cultural/racial diversity is maintained in judicial selection, only the qualitative research could provide an answer. That answer is that at least **for the seven counties subject to this research, it is clear cultural/racial diversity is not maintained in judicial selection.** All of the primary Juvenile Court judges in these counties are Caucasian despite significant minority population in some of these counties. Where Juvenile Court judges are elected, however, only the voters can remedy this. Anecdotally, it seems some greater diversity is maintained in the selection of Juvenile Court referees, but this is an area that can be remedied administratively, and there is doubtless room for improvement in the maintenance of cultural and racial diversity among the referees.

**The study suffered from serious data limitations and cooperation particularly from school districts.** These limitations are described in detail in the sections below<sup>13</sup>. To the extent this study can point to some specific recommendations, the following deserve attention:

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<sup>11</sup> See Davidson County and Shelby County findings below related to Judicial Treatment.

<sup>12</sup> In fact, in the course of this research, about the only time recommendations to DCS that a juvenile be placed in a secure facility have come in cases in which the juveniles have escaped from DCS custody and gotten into significant further trouble, on several prior occasions. In such cases, OBER researchers have seen Juvenile Court judges and referees recommend secure placement, but even then, those recommendations are not always heeded by DCS.

<sup>13</sup> See the sections on Limitations below.



1. **The Department of Mental Health and Mental Retardation needs to be brought back to the juvenile justice table.** Through legislation, or political persuasion, Mental Health needs to increase its services and service availability for TennCare and uninsured Tennessee juveniles without the requirement that the juvenile be in DCS custody or have committed a felony. Perhaps TCCY could play a role in helping to spearhead efforts to achieve this increase;
2. **A place at the table also needs to be found for the Department of Education (and Local School Systems):** While both systems have individualized missions and goals, the overarching end that both systems should be pursuing in partnership is to ensure the best quality of life for the youth in their communities, a quality of life that includes education; safety; the inculcation of good community and citizenship values resulting in good conduct; and the overall best interests of the individual juveniles, their families, and their communities.
3. Perhaps TCCY, in collaboration with other agencies such as DCS and the Juvenile Courts could develop **a model for a uniform needs assessment system for both custodial and non-custodial needs assessments for juveniles.** And, perhaps TCCY could establish a set of monitoring standards for the facilities that execute such assessments.
4. **More cultural competency training needs to be made available, and perhaps even mandatory, for all staff of the Juvenile Courts, DCS, and any other appropriate agencies who work with juveniles.** Perhaps TCCY could work with the Council on Family and Juvenile Court Judges and DCS to sponsor quarterly seminars offering cultural competency training to any and all Juvenile Justice System personnel and DCS staff. As an alternative, perhaps TCCY could develop some type of training and/or continuing education seminar model to provide cultural competency training; this model could then be offered to counties for inclusion in their own staff training programs.
5. **TCCY could develop and offer some type of training and/or continuing education seminar emphasizing to Juvenile Justice System personnel the critical importance of thorough and accurate data collection.** Perhaps this model could then be offered to counties for inclusion in their own staff training programs.

6. **TCCY could include information about gang involvement in the data it requires the counties to keep and submit.** Furthermore, if TCCY were to develop a set of questions for self reporting of gang involvement for the CPORT interviews to ask of the juveniles they interview, those questions, once field-tested and perfected, could be offered to the counties for inclusion in their intake process.