

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

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# 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

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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.

techniques and other statistical manipulation tools to isolate causes and correlates of disproportionate minority confinement (DMC). Because the total number of 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

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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.

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 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

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

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 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.**

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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.

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] 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;

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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.

- School behavior and performance; and
- The opportunities in the community.

**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

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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.

sections below<sup>13</sup>. To the extent this study can point to some specific recommendations, the following deserve attention:

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.

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

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.

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## II. Acknowledgements

The danger in undertaking any series of acknowledgements is that of oversight or omission. OBER has been fortunate to garner generous support throughout the State of Tennessee and would hate, in the rush to thank individuals and specific groups, inadvertently to leave someone or some group unrecognized. Nevertheless, hopeful that anyone or any group not mentioned will not be slighted, OBER would like to thank the following individuals and groups for their cooperation, assistance, and many cases, truly enthusiastic participation in, and support of, the research leading to this report:

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