

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

Executive Summary

By
the Office of Business and Economic Research
College of Business

For
the Tennessee Commission on Children and Youth

August 2003



Tennessee Commission on Children and Youth authorization number 316064. June 2003. 500 copies. This public document was promulgated at a cost of \$1.12 each.

Table of Contents

I.	Executive Summary	1
II.	Findings.....	5
III.	Recommendations.....	11
IV.	Acknowledgements.....	11

Assessment of Disproportionate Minority Confinement (DMC) in Tennessee’s Juvenile Justice System

I. Executive Summary

This research project was sponsored by the Tennessee Commission on Children and Youth (TCCY), 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.¹ Prior TCCY research into the existence of minority overrepresentation in Tennessee had revealed significant disproportionate minority confinement (DMC) issues 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 did not disproportionately confine their minority youth, and the Commission hoped to find out why.²

¹ 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.

² 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.

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 essential 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.³ The quantitative portion of the research, an examination of aggregate data for all juvenile court cases for 2000 in the study counties, 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 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, a more intensive study of randomly selected individual cases that relied upon case studies,⁴ 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

³ See the Brief Project History section at www.tennessee.gov/tcct 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.

⁴ 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.

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 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 refers to DCS commitment/custody⁵. 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.

⁵ For exact definition and construction of these variables see Table A1 in Appendix A at www.tennessee.gov/tccy.

II. Findings

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.** This was mainly due to the lack of documentation in case files used for the qualitative review. 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; and (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 was 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,”⁶ and the number is relatively high in all of the counties.⁷

- ◆ 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 suggested that there was strong evidence of a positive correlation between lack of education and DMC and a corresponding positive correlation between reduction of DMC and higher education.** The quantitative research indicated a positive correlation between higher education and reduction of DMC. From the qualitative research it is also possible to say anecdotally that, among those juveniles who were committed to DCS or transferred to adult court, there seemed to be support for this hypothesis.
- ◆ 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 was strong evidence to suggest it is. **Likewise, the qualitative research also suggests that single-parenthood, and particularly living with the mother only, was strongly correlated with commitment to DCS custody and transfer to adult court.** In Washington County, 100% of the juveniles who were committed to DCS custody were from single-parent households,⁸ and the percentage of juveniles committed to DCS and from single-parent households was above 50% in all of the subject counties. **In turn both portions of the research also supported the finding that a more traditional family structure, with two parents, was negatively correlated with DMC.**

⁶ See Washington County findings at TCCY’s website, www.tennessee.gov/tccy for Committed Cases above.

⁷ 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.

⁸ See Madison County findings in the full report at www.tennessee.gov/tccy 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 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 seemed 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 provided was that race did 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.**⁹

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 system¹⁰;
- Degree of need for treatment/rehabilitation;

⁹ 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.

¹⁰ 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.

- 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.

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.¹¹ 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.¹²

- ◆ Qualitative analysis confirmed that, based on anecdotal evidence, **segregation or stagnated socialization (e.g., lack of participation in school activities, sports, etc.) positively correlated with DMC.** The quantitative data analysis could not respond to this issue because this information was not contained in the juvenile justice system database.

¹¹ See Davidson County and Shelby County findings at www.tennessee.gov/tccy related to Judicial Treatment.

¹² 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.

- ◆ Neither quantitative nor qualitative analysis could address whether the absence of or poor legal representative was positively correlated with DMC, although many of the cases revealed that the juvenile's right to counsel was waived or that he or she was represented by a public defender.
- ◆ 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 was 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 was 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.

III. Recommendations

The study suffered from serious data limitations and cooperation particularly from school districts. These limitations are described in detail in the completed study¹³. 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 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 Tennessee Council of 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

¹³ See the sections on Limitations at the TCCY website, www.tennessee.gov/tccy.

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 Children’s Program Outcome Review Team (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.
7. **Tennessee needs a better information and data-collection system for juvenile justice that can be shared among social service agencies.**

The complete report from TCCY’s DMC study can be found on the agency’s website at www.tennessee.gov/tccy.

IV. 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:

TCCY Staff: OBER would like to thank Linda O’Neal, the director of the Tennessee Commission on Children and Youth, and Debrah Stafford, director of the Juvenile Justice Division and would like to offer special thanks to Ron King and David Lewis in the state office for their tireless efforts and invaluable assistance toward completion of this report.

TCCY Regional Coordinators: OBER would like to thank all of the regional coordinators for their help, especially Rodger Jowers for his help in Madison County and more generally, Marilyn Davis in Hamilton County (and others associated with the DMC local task force there) for help in Chattanooga, and Jo Stanley for her help in Davidson County, with additional appreciation to the members of the Mid-Cumberland Council for their help and support.

DMC Task Force Members: OBER would also like to thank the membership (past and present) of the statewide DMC Task Force and the newer, local DMC task forces for all of their help and offers special thanks to Dennie Littlejohn in Knoxville.

Focus Group Participants: OBER would like to thank all of the individuals who participated in the various focus group that were conducted as part of this research for their time and for sharing the benefits of their experience and insights, and in particular OBER must thank Randi Guigui for her tireless and detailed help in the development of the survey instruments (and for her help with the Memphis focus group for juveniles (see below)).

Individuals From the Specific Counties: There are also a number of specific individuals from the various counties that OBER would like to thank for all of their help facilitating and participating in the research.

Davidson: In Davidson County, Judge Betty Green, the referees, and the court staff, especially Tim Adgent, have been open and generous with their time; Juvenile Court Clerk Vic Lineweaver and his staff, particularly Telisa Green, have been immensely patient, accommodating, and helpful. The lawyers, defense counsel, and prosecutors were helpful, particularly private attorney Chuck Cherry, Sheila Calloway in the Public Defender's Office, and Karen Fentress in the District Attorney General's Office. OBER also offers its appreciation to Captain Karl Roller from the Youth Services Division of the Metro Police (and Detective Grant Carroll from Metro Police as well); and to Dr. Jules Marquart, who recently transferred from the Department of Children's Services to the Department of Finance and Administration.

OBER also owes a debt of gratitude to Charles Ward, the supervisor of the probation officers in Davidson County and to all of the probation officers who shared their time and insights and who helped in the attempts to organize the focus group for parents and juveniles in Davidson County.

Shelby County: In Shelby County, OBER also received excellent cooperation from the Juvenile Court Officers and staff, in general, and from Sherry Schedler and the DCS liaison to the Juvenile Court there, Tom Haynes, in particular. OBER also owes a debt of gratitude to the former director of the Memphis Police Department, Walter Crews, for his patience and help; to Terre Fratesi in the District Attorney General's Office for her time and her contacts; to the Shelby County and Memphis Schools Systems, and particularly the principal of Central High, Dr. John Avis; and to Corrections officials for Shelby County, in general, and Marquinne Yancey and her intern in particular.

OBER also owes a debt of gratitude to the Juvenile Violence Abatement Project of the Memphis Police Department, and in particular to Dr. Rita Dorsey and Terrell Johnson, for help organizing the focus group for juveniles and their parents in Shelby County. OBER also wants to thank Minister Ronnie Cole who brought juveniles from his "More Hugs than Slugs" program to participate in the focus group. As noted above, OBER

also wishes to thank Randi Guigui for unexpected but welcome and invaluable help conducting that focus group.

Knox: In Knox County, OBER would like to thank Judge Carey E. Garret for his participation, his time, and his patience. In Knoxville OBER researchers were given open and easy access and any and all help requested from Larry Gibney, the Court Services director; from the Juvenile Clerk supervisor under Court Clerk Catherine Quist, who was also helpful; and, more generally, from the personnel in the Juvenile Division of the Court Clerk's Office and the Court staff.

Hamilton County: In Hamilton County, OBER offers its thanks to Judge Suzanne Bailey; special thanks to the Court Administrator Chris Albright for his patience and for his tireless efforts; and appreciation to A.C. Bright from the District Attorney General's Office for his help early in the research process as a focus group member and source of information and insight.

Madison: In Madison County, OBER expresses its sincere gratitude to Judge Christy Little; to Dr Barbara Dooley, the former director of Court Services, who has recently retired; and to Brenda Roden in the Clerk's Office.

Blount: In Blount County, OBER wishes to thank Judge Terry Denton for his time and his graciousness and to thank Steve Hammonds, the Youth Services director, as well as the members of the Clerk's Office staff, for their time and patience.

Washington: In Washington County, OBER met with great enthusiasm and accommodation and wishes to thank Judge John Kiener and Suzan Mitchell in the Washington County Juvenile Court at Jonesborough; and Judge Sharon Green and Les Carver in Johnson City Juvenile Court for their time and their help.

Graduate Students and Contract Researchers: Finally, we would like to thank the TSU graduate students and contract researchers who put so much of their own time, sweat, and tears into this project.