

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

Tenth Compliance Report – Equal Protection

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INTRODUCTION

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

The Parties selected Dr. Michael J. Leiber as the Equal Protection Monitor of the Agreement. The Agreement requires the Monitor to assess the level of compliance by the juvenile court every six months and to produce reports. The first Monitor's report was submitted on June 12, 2013; the second Equal Protection Monitor Report was submitted on January 16, 2014, the third was submitted on June 17, 2014, the fourth on January 12, 2015 and the fifth Equal Protection Monitor Report was submitted July 3, 2015. The sixth report was submitted on December 15, 2015. The seventh report was submitted on June 17, 2016. The Eighth Equal Protection Report was November 22, 2016, while the Ninth Equal Protection Report was submitted July 1, 2017. This is the Tenth Equal Protection Monitor's Report on movement toward compliance on the items stipulated in the Agreement as pertaining to Equal Protection. The time-frame assessed is April 26, 2017 to October 31, 2017.

The evidentiary basis for my opinions are based on document reviews (policies, data, compliance report by the Settlement Agreement Coordinator and reports provided by Pam Skelton, Juvenile Court), in-conjunction with the Equal Protection Strategic Planning Committee, the Shelby County Disproportionate Minority Contact Coordinator or DMC Coordinator, meeting notes, emails, etc., an on-site visit (October, 2, 2017 through October 3, 2017), interviews and phone-calls with Staff, the Shelby County DMC Coordinator, and conference calls with Staff and the Department of Justice (DOJ). Each of the nine previous Equal Protection Monitor reports have also been relied upon to arrive at conclusions concerning compliance with the MoU.

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

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

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

THE CONTINUED INFLUENCE OF RACE IN JUVENILE COURT PROCEEDINGS

As recently as the summer of 2016, the Juvenile Court began to show more of a commitment and activity to address DMC. This ownership and efforts on the part of the Juvenile Court, further discussed below, have yet to yield significant changes in DMC and greater equity in the handling of youth and in particular Black youth. Since this Tenth Equal Protection Monitor Report, for the most part, is not based on new data or a new assessment study of court outcomes, the section below is taken from the Ninth Equal Protection Monitor Report to detail trends in minority youth overrepresentation and race relationships with case outcomes. The next assessment study will be conducted in April/May of 2018 that examines data covering decision-making through 2017. Relying on data from 2009 through 2016 and as provided in the Ninth Equal Protection Report, reductions in raw numbers for court referrals, detention, and transfer to adult court have occurred. Youth are also being diverted away from harsher treatment. These results are encouraging and suggest fewer youth are coming to the Juvenile Court and entering into the system.

Still, the relative rates or gap in the racial disparity at each stage has not closed but rather has either stayed the same or has increased over time. The most troubling and problematic stages are: referral, secure detention and petition or the non-judicial outcome. More specific (see Figure 1):

Court Referrals

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

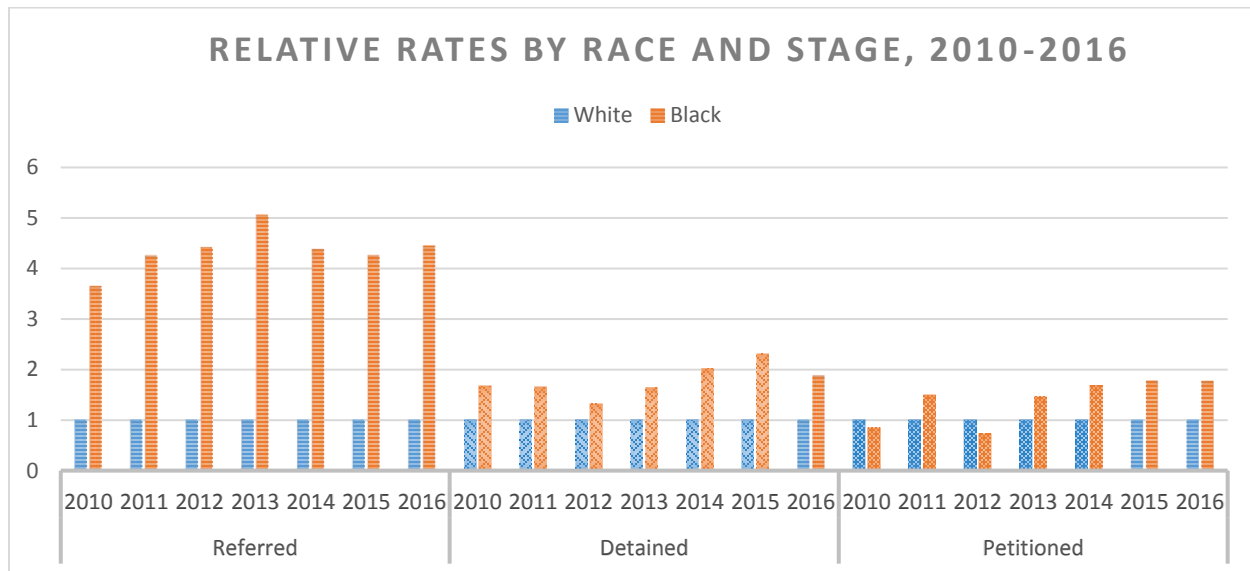
Secure Detention

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

Non-Judicial Outcomes

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

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



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

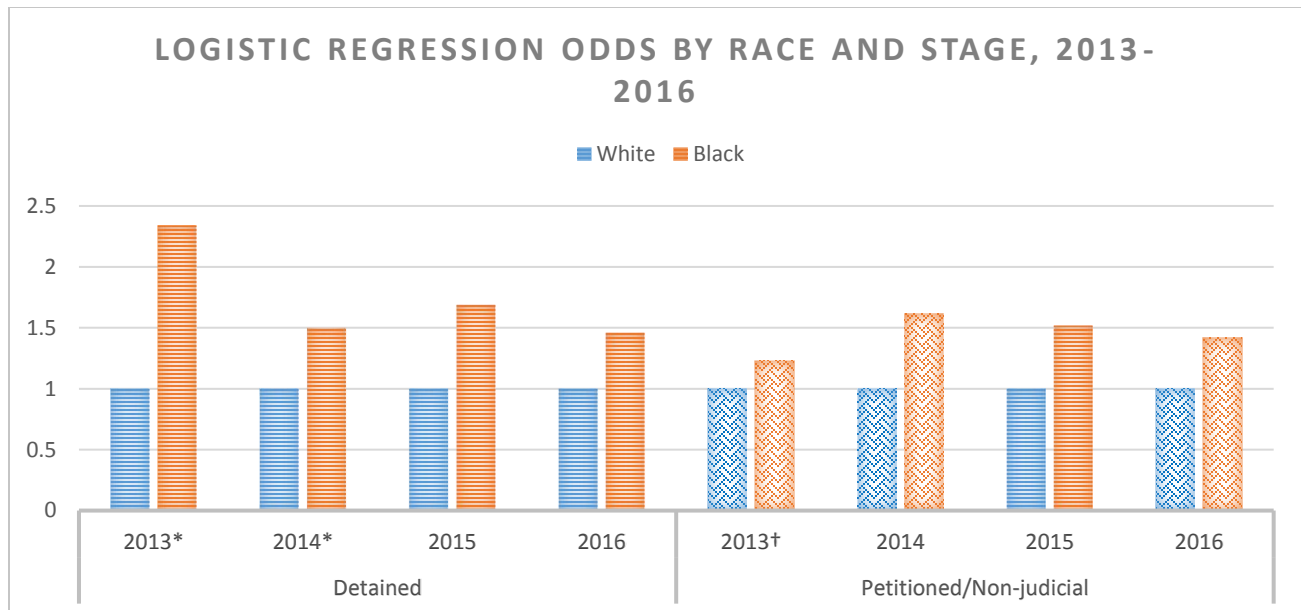
Information from relative rates provides a descriptive picture of the extent of DMC or a count, while assessment studies produce findings that take into consideration alike cases and attempt to examine what outcomes youth receive. A total of six assessment studies have been conducted (one that led in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

More specific:

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

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

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



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

† Logistic regression coefficient not significant

Note: How to read regression odds, for example in 2013, detained 2.34 Blacks to 1 White. Information on referrals is not presented since arrest data that also captures stops and warnings is not available and thus, is not subject to multivariate analyses.

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

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

Again, it needs to be pointed out that the Juvenile Court has attempted to make change in how it is addressing DMC (i.e., in the form of procedures, implementation of initiatives, etc.). While these efforts are to be acknowledged, the Juvenile Court is encouraged to continue these efforts as well as continue to monitor and evaluate procedures and initiatives. Change is a process and often needs time before the factors that contribute to DMC and inequitable treatment can be removed and/or altered.

The failure to reduce DMC and the influence of race on court proceedings, especially at detention and the non-judicial stages, can be linked to several factors that have been continuously highlighted and discussed by the previous Compliance Reports written by the prior Settlement Agreement Coordinator and those by the Equal Protection Monitor. These factors provided insights as to why the intended changes in terms of DMC and greater equitable treatment of Black youth in the Court has not occurred. As listed in the Ninth Equal Protection Monitor Report (July 1st, 2017), these were and continue to be: **(1) A Lack of the Use of Findings from the Assessment Studies to Drive Strategies, Procedures, and Policy; (2) A Lack of the Examination of and Changes in Existing Procedures and Policies, especially at Referral, Detention and the Non-Judicial Stage.** Other points raised in the Ninth Equal Protection Report were the need to address a lack of ownership of the DMC issue, the lack of use of diversion programs, and the lack of movement on the race gaps in terms of and actual transfer to adult Court as pertains to DMC. These three points will be addressed later in this 10th Report. The focus of the discussion moving forward is on referrals, secure detention, and intake/non-judicial decision-making.

It was recommended to, and the Juvenile Court responded, by collecting additional data tied to “drilling down” further to understand the results from the assessment studies. In addition, results from the assessment studies and data collected by the Juvenile Court have been relied upon to enact changes in strategies, procedures and policies. These efforts have centered on police referrals, secure detention, and non-judicial decision-making within the context of strategies, procedures and policies. More specific, led by Ms. Skelton and the Equal Protection Strategic Planning Committee discussions and an array of activities have occurred that focus on referral, detention and decision-making at the non-judicial stage. Among these is the focus on the summons initiative and in particular, the Summons Review Team initiative (SRT), revising both the Detention Assessment Tool version 3 (DAT3) and the Graduated Response Grid (used at non-judicial stage).

Summons Review Team (SRT)

In partnership with law enforcement, the Juvenile Court has had a Summons program since 2010. This program supplemented the SHAPE program with the school systems, involved law enforcement and allowed summonses to be issued in lieu of arrests during school hours for minor offenses occurring at school. Until recently, however, the Juvenile Court conducted no thorough analysis of the effectiveness of this program as it relates to DMC. Potentially problematic practices such as the inclusion of too many youth through the program (i.e., net widening) or Black youth not receiving a summons and instead, a direct referral to detention or not enough

youth receiving a summons were not monitored. In a new initiative, the Summons Review Team (SRT) was developed where the Juvenile Court now tracks information to assess which youth are receiving summons, for what offenses, whether the summons is appropriately being issued, if youth could be warned and released rather than attend an intake interview, and whether trends exist that need to be addressed with law enforcement. This initiative reviews all summons (not just summonses issued for limited minor offenses occurring at school. The SRT effort was fully implemented in the fall of 2016 and revised in February 2017.

In response to recommendations to conduct a formal evaluation of the summons effort and in particular the SRT, the Juvenile Court provided data for a seven-month period (February through August 2017) to the Equal Protection Monitor. An evaluation was conducted that resulted in a report dated September 13th, 2017, and is presented in Appendix 1.

Key findings from the evaluation are:

- 52% of cases result in a SRT admission. That is, 52% of the youth receiving a summons were diverted away (e.g., warned and released) from having to go to Juvenile Court for an intake interview.
- Race does not appear to be related to the SRT decision. That is, being White or Black did not impact the SRT decision once relevant factors were taken into consideration (e.g., crime severity, etc.).
- Race is not related to the non-judicial decision at intake; that is, Black youth were not found to be more likely to go further into the proceedings at intake than comparable White youth (see Table 3, $p = .056$, not reported).

These findings are very encouraging. The last finding at the non-judicial stage (intake) is inconsistent with results from prior studies of non-judicial decision-making at intake. Thus, the finding could mean that race is not a determinant of intake decision-making. Or, the finding is anomaly since key variables like prior record, family structure, school assessments, etc. were not taken into account. Further research will provide more insights into what relationship, if any, race has at intake.

On the basis of these overall findings, several recommendations were given:

- Although a good number of youth are participating in the SRT program, there is a need to increase the number of youth participating in the program.

Since 89% of those that did not participate in the SRT program, received a non-judicial intake outcome, it was recommended to assess the criteria for declining admission and adjust to include those that are simply being released at intake or receiving modest interventions. In other words, admit more youth into the SRT program.

- Create a variable or category indicating why a youth was declined admission into the SRT program.

- Although race was not found to be influential at intake, it is imperative for the Juvenile Court to continue to examine decision-making at this stage and the Graduated Response Grid itself as to why race effects have been present at this stage in the proceedings.

Overall, the creation and use of the SRT program is very good because it has great potential to reduce the number of youth entering the court via a summons. This effort should also help reduce DMC. The Juvenile Court is commended for this effort and should heed the recommendation to increase the number of youth participating in the program. The Juvenile Court has asked the Equal Protection Monitor to conduct another evaluation and he has agreed to do so. In addition, a staff person from the Court will be coming to Tampa, FL (early December) to be trained as to how to do the SRT evaluation. This training should allow the staff person to conduct periodic assessments of the SRT program for the purpose of monitoring possible change. The Juvenile Court's willingness to do this is a good sign and shows a commitment to adhere to a continuous process of monitoring, evaluation, and change of the SRT initiative. Such a commitment will be needed to increase the effectiveness of the program and hopefully, reduce DMC.

Detention Assessment Tool version 3 (DAT3)

While the STR program was developed to help reduce youth being referred by a summons to the Juvenile Court, the DAT has been implemented to structure detention decision-making that may result in more alike outcomes for alike offenders. This involves, in general, youth referred by the police to the Juvenile Court for consideration of secure detention. The DAT guides intake counselors on objective decision-making as to which youth meet criteria for secure detention pending a detention hearing. The revised DAT or DAT3 was implemented February 1st, 2017. As noted in every Equal Protection Monitor Report including this Tenth Equal Protection Report, being Black increases the chances of being held in secure detention. This is evident in the form of the RRI which reveals a racial gap and in findings showing a Black to be more likely to be detained than a comparable White. These results have been consistent and have been evident despite the use of various versions of the DAT and the DAT having been validated. It has been recommended that the DAT3 be evaluated. It is believed that in some manner, either in terms of the criteria comprising the instrument and/or the use of overrides, the DAT3 is at the root cause of these issues. An override represents a decision to detain a youth whose score on the DAT3 is below 19. A total score of 19 or higher is otherwise required to justify the use of secure detention.

The Juvenile Court has been slow to follow through on the recommendation to examine in detail DAT3; thus, no change has occurred in detention and DMC. Following the last site visit in early October of 2017, the Juvenile Court, however, provided detention data to the Equal Protection Monitor to conduct an assessment of the DAT3. The data examined consisted of all referrals administered the DAT3 in the eight-month period since the implementation of the DAT3 from February 1st, 2017 through September 30th, 2017.

A summary of the evaluation of the DAT3 can be found in Appendix 2. The DAT3 instrument can be found in Appendix 3. Key findings from the evaluation are:

- Ninety-three percent of those referred to Juvenile Court via a transport were Black youth; representing a significant overrepresentation relative to the general population.
- Many of these youth are not dangerous as evident by the case characteristics of the referrals and the final score on the DAT3.
- Twenty-one percent or 240 of all youth referred to the Juvenile Court scored a 19 or higher on the DAT3. A score of 19 is the threshold to allow for a decision to use secure detention.
- Thirty-one percent of all cases resulted in detention as the result of an override of the total score. That is, 355 youth who scored lower than a 19 were subject to detention.
- Thus, in total 595 youth were held in detention or 52% of all the cases.
- Of those detained, 60% or 355 of 595 cases, were detained due to an override. Of the overrides all but 3 were placed in secure detention.
- Justifications for the override as provided by court personnel were: possession /use of a firearm (34% of the justifications for the override); open APC/Warrant from the court (21%); followed by danger to the community (16%), court ordered (14%), threat of bodily harm (10%), and some form of parent guardian refusal/not being located, and not available making up the rest of the justifications for the decision to override (7%).

In short, the decision to detain, in many aspects, does not appear to be tied to the threshold of 19 total points. Although some of these acts or crimes require detention by law, the individual items comprising the instrument and the weights assigned to those items need to be re-evaluated. Furthermore, the use of overrides is too frequent and the justifications for its use seem to be already present within the DAT3 itself. For example, justifications, like danger to the community and threat to bodily harm, are captured in the section on aggravating factors and therefore should not qualify as override reasons.

On the basis of these results, the following recommendations are provided:

- The Juvenile Court needs to continue to work with the police to reduce the number of youth referred to Court, especially since 93% of those referred in this study are Black; representing a significant overrepresentation relative to the general population in Shelby/ Memphis. While acknowledging that the Juvenile Court has attempted to work with the police to achieve this goal (e.g., discussions, training, etc.), it is evident that more work needs to be done in terms of the transporting of youth to the Juvenile Court.

Because of the substantial number of referrals involving youth and in particular, Black youth, the Juvenile Court is the next “gatekeeper” to divert youth away from being held in secure detention.

Thus,

- Greater development and use of alternatives to secure detention are needed and should be used.
- A related recommendation and one that has been voiced by the Equal Protection Monitor on numerous occasions is the need to continue to look at the DAT3, discuss the results, revise, re-evaluate, revise, etc. This evaluation shows that there are problems with the DAT3 and how it contributes to the DMC issue. Accordingly,
 - There needs to be a discussion of these results that includes a strategy as to how to address.
 - A revision needs to occur to change some of the criteria and weights associated with the items of the DAT3.
 - The revision needs to involve a change in the override process; training and monitoring of the supervisor(s) will need to be done.
 - The change to DAT3 should come as soon as possible.
 - The Juvenile Court needs to conduct another evaluation following the revision to DAT3. This evaluation should occur within a 6-7-month period of time.

The Equal Protection Monitor is open to coming to Memphis in January or early February of 2018 to have a one to two day working meeting to help the Juvenile Court better understand this study, the results, as well as provide direction as to how to further refine the DAT3 and the process involved.

Within the context of referrals to the Juvenile Court via a transport, it is important to point out that the Juvenile Court has implemented a number of initiatives to address referrals and youth in detention. One such initiative is the Precinct Liaison program – one operates at Old Allen – and another at the Tillman Station. This is an effort that entails a probation officer in the field to work with the Memphis Police Department to divert youth rather than issuing a summons and possibly, a transportation. The Juvenile Court has also expanded the use of electronic monitoring for pre-adjudicatory youth as an alternative to secure detention. In addition, the Juvenile Court continues to use The Ceasefire Gun Program has an initiative to release youth who are a first-time misdemeanor gun offender from detention. Last, an expeditor continues to review the daily detention report as well as review each and every youth in detention at least weekly to assess whether a youth can be either released, placed on electronic monitoring, or removed from electronic monitoring. Each of these have the potential to either reduce the number of youth referred to Juvenile Court and/or reduce the number of youth and the length of stay of those already detained. However, the best strategy for impacting change and improving the services provided by the Juvenile Court to youth is to address the overall decision to detain.

Graduated Response Grid

The Graduated Response Grid is a revision of a prior instrument and was implemented November 1st, 2016. The instrument is used at intake or the petition stage to determine release, diversion or a referral for further court proceedings. The Juvenile Court posted a call for someone to aid them in the further evaluation of the Graduated Response Grid (posted in April of 2017). Dr. Harris has been awarded the contract and has been meeting with the Juvenile Court to assess the Response Grid. Recall that every study that has been conducted has discovered that Black youth are more likely to be petitioned than comparable White youth. Similar to the call to evaluate the DAT3 at detention, the Equal Protection Monitor has consistently recommended the Juvenile Court examine the Grid instrument to determine if the tool itself is contributing to the race relationship at intake.

- It is recommended that the Juvenile Court continue to work with Dr. Harris and that either refinements are made to the instrument or a new instrument be adopted that is race neutral.

Overall, the Juvenile Court has implemented and expanded initiatives that have the potential to reduce the number of referrals to the Court and the use of secure detention. In particular, the use of the SRT and revising the criteria for admission as well as refinements to the DAT3 and in its application have the potential to reduce DMC and generate equality for all youth in contact with the Juvenile Court. The same can be said of decision-making at intake/petition once the Response Grid is studied and refined or an alternative to it is implemented.

Change in the context of reducing DMC has not occurred at referrals, secure detention, and non-judicial decision-making at intake/petition. In part, the lack of change is the result of needing more time for the efforts to have an impact. Change has also not occurred because while the Juvenile Court has collected base information for some of the initiatives/programs, there is also the need to rigorously evaluate and refine initiatives, programs, and/or instruments to achieve the intended goals of providing treatment and holding youth accountable in a race neutral manner.

This 10th Equal Protection Monitor Report has focused on referrals, secure detention, and non-judicial decision-making at intake/petition. This is because these three areas necessitate the greatest attention before possible change can occur. While continued work needs to be done in these areas, the Juvenile Court has done an exceptional job in the following areas:

- Has shown greater ownership of the DMC issue. This is a good sign since the Juvenile Court was criticized for not doing so in the past Equal Protection Monitor Reports, including the ninth report.
- Identifying programs and assessing how often used, eligibility, etc. One such program that emerged from this investigation is the By-Pass program. The By-Pass program is an alternative to placing a youth on probation. It is a 90-day program for age 14 and

younger. The Parent Orientation program is being used. The Parent Orientation program is for parents where they can ask court personnel questions about juvenile court proceedings. Parents will be also informed as to the importance of what it means to reject an offer to participate in diversion. Additional efforts include: SHAPE, Porter Leath, etc.

- The Strategic Planning Team has been meeting to discuss an array of efforts to reduce DMC, such as looking at policies and procedures, pulling together a resource guide containing a listing of programs and what they do and where they are located in the community. They have also developed logic models.
- Worked effectively to keep the community updated on related items to juvenile justice, DMC, and the MoU through the Court Website/dashboard.
- Worked with the County-Wide Juvenile Justice Consortium to educate parents and the community about Court proceedings, etc.
- Continue to work JDAI and improve detention, training of police officers, and court personnel.
- Continue to do community outreach, such as holding a community meeting, conduct youth training classes, communications through Facebook and Twitter.
- Continue to work with other in the community that are also active with DMC.
- Continue to work with the County Prosecutor to reduce the number of transfer to adult court.

In summary, the Juvenile Court is laying the foundation to reduce the presence of DMC (as measured by counts and the relative rates) that may also result in equitable treatment of all youth (as measured by the results from assessment studies and the evaluation of the SRT program and the DAT3). If the Juvenile Court continues to be an active participant and further enacts changes in policies and procedures, it is anticipated that reductions (numbers, racial gap) and greater equity in the treatment of all youth will occur in court referrals, secure detention, and non-judicial outcomes.

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

RATINGS TOWARD COMPLIANCE

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

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

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

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

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

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

Table 1. Compliance Rating by Provision

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

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

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

1. DMC Assessment

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

1. DMC Assessment

- (b) Within nine months, Juvenile Court shall augment the appropriate data collection method to assist in its evaluation of its DMC levels, causes, and reduction. This

includes information on points of contact, the RRI, and available diversion options for youth appearing before JCMSC... (p. 22)

**STATUS-PARTIAL COMPLIANCE FOR EQUAL PROTECTION
MONITOR (PC), PARTIAL COMPLIANCE FOR STAFF (PC)**

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

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

STATUS-PARTIAL COMPLIANCE (PC)

DISCUSSION: The Juvenile Court and the various committees have begun to collect data, examine the data and have had discussions and meetings as to what do to address DMC and issues pertaining to the results from the assessment studies. These are good first steps; efforts need to continue to make change in policies and procedures, implementation of programs and altering of structured decision-making tools – DAT3, RESPONSE GRID.

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

STATUS-SUBSTANTIAL COMPLIANCE (SC)

DISCUSSION: Already discussed. Juvenile Court is now using framework used to guide this compliance report as their strategic plan. The Juvenile Court has shown a strong commitment to address DMC. With the passage of time combined with the effort put forth by the Court overall, a rating of substantial compliance is given.

2. DMC Policies and Procedures

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

STATUS-PARTIAL COMPLIANCE (PC)

DISCUSSION: Already discussed.

STATUS-PARTIAL COMPLIANCE (PC)

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

- (b) Revision of the above to include: (p. 23)
 - (i) Collection of sufficient data
 - (ii) Provision requiring least restrictive options and alternatives to a detention setting
 - (iii.) Guidelines identifying a list of infractions for which a child shall NOT be detained

- (iv.) Guidelines identifying a list of infractions for which a child may be detained
- (v.) Training and guidance on the use of existing and new objective decision making tools
- (vi.) Requirement that a supervisory authority review all overrides within each department on, at minimum, a monthly basis.

STATUS-PARTIAL COMPLIANCE (PC)

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

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

STATUS-PARTIAL COMPLIANCE (PC)

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

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

- (a) Use of objective decision-making tools, etc.

STATUS-PARTIAL COMPLIANCE (PC)

DISCUSSION: Already discussed

- (b) Refine decision-making tools, etc.

STATUS-BEGINNING COMPLIANCE (PC)

DISCUSSION: Already discussed.

- (c) Implementation of a pilot program involving sheriff, police and the summons program

STATUS-BEGINNING COMPLIANCE (BC)

DISCUSSION: Agreement in place and implementation, training and evaluation needs to be part of effort

- (d) Use of alternatives, including a pilot diversion program to secure detention, day/evening reporting center, the Law Enforcement Assistance Program, expansion of SHAPE, expansion of Electronic Monitoring, CEASE FIRE, etc.
STATUS-PARTIAL COMPLIANCE (PC)

DISCUSSION: Already discussed. It is important to note planned expansion of use of electronic monitoring. As stated in previous Compliance Reports, all of these strategies and programs need to be critically examined to assess/evaluate if address DMC.

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

STATUS-PARTIAL COMPLIANCE (PC)

DISCUSSION: These items have been discussed previously. Positive steps have been taken. Need to continuously review and revise as already discussed. This rating has improved but more work needs to be undertaken as pertains to referrals, secure detention, and intake decision-making.

4. Training (p. 26-27)

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

STATUS-SUBSTANTIAL COMPLIANCE (SC)

DISCUSSION: Several training sessions have occurred and training on certain programs is still in progress. Overall, the Court is commended for their effort in this regard. With the passage of time combined with the effort put forth by the Court overall, a rating of substantial compliance is given.

5. Community Outreach as stated in Agreement

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

STATUS-SUBSTANTIAL COMPLIANCE (SC)

DISCUSSION: This items required the creation of a county-wide consortium that includes but is not limited to six to nine citizens selected by the Mayor and approved by the County Commission who are reflective of the racial and ethnic diversity of the County. The consortium should also include at least two parents of children who have had children before the Court for a delinquency matter; a person under age 21 who had direct contact with the juvenile justice system and community advocates (p.33). For the most part, this has been done. Though it should be noted that finding a

representative from the community who was a system involved youth at times has been difficult.

STATUS-PARTIAL COMPLIANCE (PC)

DISCUSSION: A county-wide Consortium has been formed and appears to be representative of the community. Efforts have been made to reach out to the community and the Juvenile Court. Likewise, efforts have been made to diversify the Consortium. It appears that the Consortium is on the right track. The Consortium established the parent orientation program. I will evaluate this item in greater detail before/at/or shortly following the next site visit in March/April of 2018.

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

STATUS-SUBSTANTIAL COMPLIANCE (SC)

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

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

STATUS-SUBSTANTIAL COMPLIANCE (SC)

DISCUSSION: This appears to have occurred. With the passage of time combined with the effort put forth by the Court overall, a rating of substantial compliance is given.

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

STATUS-SUBSTANTIAL COMPLIANCE (SC)

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

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

STATUS-SUBSTANTIAL COMPLIANCE (SC)

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

- (f) A community survey shall be conducted (**one year**) (p. 34)
 The survey should measure public satisfaction, attitudes among court personnel and community members both within Memphis and the County and should be representative of gender, race/ethnicity.
STATUS-BEGINNING COMPLIANCE (BC)/COMPLIANCE LEVEL TO BE DETERMINED (CLTBD)
 DISCUSSION: A survey of the community was taking place after many delays that were not the fault of the Court. A contract had been awarded to Dr. Laura Harris and she was working with a group contracted by OJJDP and in particular, Tom Harig. As of June 15th, 2017, the survey has been suspended by parties outside that of the Juvenile Court. A solution to this item should come before/at/or shortly following the next site visit in March/April of 2018.

Appendix 1

Sept. 13, 2017

Dec. 11, 2017

Michael Leiber, Ph.D.

Equal Protection Monitor

&

Maude Beaudry-Cyr, M.A.

Data Manager

In partnership with law enforcement, the Juvenile Court has had a Summons program since 2010. The program was implemented as a means for law enforcement to issue summons rather than arrest youth involved in minor offenses, such as simple assault and trespassing. Until recently, however, the Juvenile Court had conducted no thorough analysis of the effectiveness of the program as relates to DMC. Potentially problematic practices such as the inclusion of too many youth through the program (i.e., net widening) or Black youth not receiving a summons and instead, a direct referral to detention or not enough youth receiving a summons were not monitored. In a new initiative, the Summons Review Team (SRT) was developed where the Juvenile Court now tracks information to assess which youth are receiving summons, for what offenses, whether the summons is appropriately being issued, if youth could be warned and released rather than attend an intake interview, and whether trends exist that need to be addressed with law enforcement. The SRT initiative was fully implemented in the fall of 2016 and revised in February 2017.

In response to recommendations to conduct a formal evaluation of the summons effort and in particular the SRT, the Juvenile Court provided data for a seven-month period (February through August, 2017) to the Equal Protection Monitor. An evaluation was conducted that resulted in a report dated September 13th, 2017, and is presented below.

Summary of Results and Recommendations Pertaining to Evaluation of SRT

Summary Findings:

- 52% of cases result in a SRT admission (see Table 1, next page). That is, 52% of the youth receiving a summons were diverted away (e.g., warned and released) from having to go to Juvenile Court for an intake interview.
- Race does not appear to be related to the SRT decision (see Table 2). That is, being White or Black did not impact the SRT decision once relevant factors were taken into consideration (e.g., crime severity, etc.).
- Race is not related to the non-judicial decision at intake; that is, Black youth were not found to be more likely to go further into the proceedings at intake than comparable White youth (see Table 3, $p = .056$, not reported).

These findings are very encouraging. The last finding at the non-judicial stage (intake) is inconsistent with results from prior studies of non-judicial decision-making at intake. Thus, the finding could mean that race is not a determinant of intake decision-making. Or, the finding is anomaly since key variables like prior record, family structure, school assessments, etc. were not taken into account. Further research will provide more insights into what relationship, if any, race has at intake.

Qualifiers

- Missing: Prior referrals, Number of charges, Family assessment, School assessment, and information on why not admitted into SRT
- Analyses based on only 7 months of data

Recommendations

- Create a variable or category indicating why declined admission into the SRT program.
- Although a good number of youth are participating in the SRT program, there is a need to increase number of youth participating in the SRT program, especially since 89% of those that did not participate in SRT received a non-judicial outcome at intake - need to assess criteria for declining admission and adjust to include those that are simply being released at intake or receiving modest interventions. In other words, admit more youth into the SRT program.
- Although race was not found to be influential at intake, it is imperative for the Juvenile Court to continue to examine decision-making at this stage and the Graduated Response Grid itself as to why race effects have been present at this stage in the proceedings.
- Instrument used by the SRT needs to be monitored, evaluated, and revised.

Table 1. Distribution of Variables (N = 2,435)

Variable	Value	Full Sample		SRT Status			
				Denied		Approved	
		N	%	N	%	N	%
<u>Independent</u>							
Race							
	0 – White	361	15	160	17	201	16
	1 – Black	2074	85	1009	83	1065	84
SRT Status							
	0 – Denied	1169	48				
	1 – Approved	1266	52				
Gender							
	0 – Male	1715	70	905	77	810	64
	1 – Female	720	30	264	23	456	36
Age							
	Mean =	15.03		15.05		15.01	
	SD =	1.73		1.56		1.87	
	Range =	7-17		7-17		8-17	
Crime severity							
	0 – Misdemeanor	2083	76	920	79	1163	92
	1 – Felony	352	24	249	21	103	8
Property offense ^a							
	0 – No	1721	71	824	71	897	71
	1 – Yes	714	29	345	29	369	29
Person offense ^a							
	0 – No	1693	69	815	70	878	69
	1 – Yes	742	31	354	30	388	31
Drug offense ^a							
	0 – No	2169	89	1078	92	1091	86
	1 – Yes	266	11	91	8	175	14
<u>Dependent</u>							
Intake							
	0 – SRT	1266	52			1266	100
	1 – Non-judicial	1037	43	1037 ^b	89		
	2 – Other	132	5	132	11		

a: Reference category is Other offense (e.g. weapon possession, disorderly conduct)

b: For analyses, intake will be defined as 0 non-judicial (includes release cases) versus 1 other/recommended for further court referral at intake (e.g., petition, waiver).

Table 2. Logistic Regression Results Predicting SRT Approval (N = 2,435)

Variable	
Race	.02 ^a (1.02)
Gender	.59** (1.81)
Age	-. ^b -
Crime severity	-1.35** (.26)
Property offense ^c	.43** (1.54)
Person offense ^c	.21 (1.23)
Drug offense ^c	1.23** (3.43)
-2 Log Likelihood	3180.28

Note: SRT defined as Denied versus Approved

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

b: Insufficient cases, variable dropped from analysis

c: Reference category is Other offense (e.g. weapon possession, disorderly conduct)

**p<.01

Table 3. Logistic Regression Results Predicting Non-Judicial versus Other (N = 1,169)

Variable	
Race	.62 ^a (1.85)
Gender	-2.14** (.12)
Age	- ^b -
Crime severity	.75** (2.12)
Property offense ^c	1.99** (7.35)
Person offense ^c	2.03** (7.59)
Drug offense ^c	1.82** (6.16)
-2 Log Likelihood	698.05

Note: Intake defined as 0 non-judicial, includes release, vs. other/further court proceedings

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

b: Insufficient cases, variable dropped from analysis

c: Reference category is Other offense (e.g. weapon possession, disorderly conduct)

**p<.01

Appendix 2

An Examination of the Detention Assessment Tool 3.0 (DAT3)

by

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Data and Variables

For the purpose of this study, detention data was obtained directly from the Shelby County Juvenile Court. The Juvenile Court has recently revised the Detention Assessment Tool (DAT) in an effort to reduce DMC and achieve equitable treatment for all youth at detention, resulting in the implementation of the DAT3 February 1st, 2017. In theory, the DAT3 is an instrument used to structure decision-making and in turn, provide consistency in the factors relied upon to arrive at detention decisions. The present study is an evaluation or assessment of the DAT3 and is not meant to be a validation study. The data for the present evaluation consists of all referrals administered the DAT3 in the eight month period since its implementation from February 1st, 2017 through September 30th, 2017.

The raw data reflecting all DAT referrals in Shelby County over eight months yielded a sample of 1,239 cases. The dataset was converted from Excel to SPSS format and all analyses were conducted using the SPSS statistical software. The data was cleaned to remove referrals where the DAT was administered more than once, keeping only the highest scored DAT. All referrals administered earlier versions of the instrument were also removed from the sample. The final sample consists of N=1,155 distinct referrals which were administered the DAT3 from February 1st, 2017 through September 30th, 2017.

Table 1 (pg.5) provides the distribution for the independent and dependent variables used in the analyses. The selection of variables was based on available data and past research dealing with evaluation studies. The inclusion of these variables was done to provide a more detailed examination of the factors that may impact the decision to detain or release young offenders.

Independent. The *race* variable is categorized as either White (7%) or Black (93%). Youth of all other races were grouped within the Black category as they comprised only 1.3% of

the sample. *Males* account for 82% of the sample and the *age of youth* ranged from 10-18 with an average age of 15. Crime severity and four indicators of crime type are included as legal variables. *Offense severity* is measured in accordance with misdemeanor (40%) and felony (60%) classifications. *Person offenses* are the most prevalent type of crime at 37%, followed by *property offenses* (34%), *domestic violence offenses* (20%), and *drug-related offenses* (2%). The reference category for the four crime type variables is other.

Additional legal indicators such as the most serious offense (Q1), additional current offenses (Q2), prior adjudications of guilt (Q3), prior escapes/warrants/APCs (Q4), and complaints/petitions pending adjudication or disposition (Q5) are captured by the instrument questions. The scoring for each of the questions was provided by the DAT assessor and tabulated in accordance with the DAT3 scoring rubric (see full instrument in Appendix 3). Two questions focused on aggravating (Q7) and mitigating factors (Q8). Aggravating factors consists of a crime or documented threat against a person and a felony sexual crime, both of which are assigned a score of 5. Mitigating factors (reverse coded) result in a two or three point deduction in the total score and include such items as currently enrolled/attending school (-2), successful completion of previous Court Ordered Program (-2), no Court contact in last 24 months (-3), and currently employed (-3).

Dependent. All scores recorded in Q1, Q2, Q3, Q4, Q5, Q7, and Q8 were tabulated by court personnel to create the *total score* variable which ranges from a low score of -7 to a high of 45. Based on the scoring stipulation that youth receiving a total score of 19 or above should be detained, all DAT3 scores above 19 are grouped within the 19 and up category. Twenty-one percent of the youth earned a score of 19 or more. In addition to receiving a score of 19 or more, a youth may be detained following discretionary detention overrides.

To capture such occurrences, an *override* variable was created where all referrals in which an override reason was provided were coded yes (31%) and all others were coded no (69%). More specifics concerning override reasons and frequencies can also be found in Table 4 (pg.11) of this report. The final case outcome for the youth is captured in the *final decision* variable. Of the three possible decision outcomes, more than half of the youth in the sample received secure detention (52%), followed by detention alternative (15%) and release (33%). For the purpose of the analyses, the final decision was further collapsed into a dichotomy represented by released/alternative (48%) and secure detention (52%).

On the basis of the distributions a number of things emerge. First, having Blacks comprise 93% of those referred for consideration of detention is an issue and reflects the trend over the years of Black youth overrepresentation at detention. Second, domestic violence cases represent 20% of the referrals. Third, an examination of the individual items comprising the DAT3 including the total score from the DAT3 generally show cases not to be too serious in nature. Still, 60% of the referrals involved a felony and 37% involved a person offense.

Last, while only 21% of the sample received a score of 19 to justify a detention decision, an override was exercised in a little over 1/3 of the cases (31%). Fifty-two percent of the sample resulted in a detention. The use of overrides and the total number of youth detained are a concern. An override is a decision by Court personnel to order detention even though the total score from the DAT3 is below the threshold of 19 points or higher. In the sections to follow these observations will be examined and flushed out in greater detail.

Table 1. Distribution of Variables (N=1,155)

Variable	Value	N	%
Race	0 – White	83	7
	1 – Black	1072	93
Gender	0 – Male	942	82
	1 – Female	213	18
Age	Mean =	15.48	
	SD =	1.46	
	Range (10-18) =	8	
Offense severity	0 – Misdemeanor	461	40
	1 – Felony	694	60
Property offense ^a	0 – No	758	66
	1 – Yes	397	34
Person offense ^a	0 – No	731	63
	1 – Yes	424	37
Drug offense ^a	0 – No	1128	98
	1 – Yes	27	2
Domestic	0 – No	925	80
	1 – Yes	230	20
Q1 – Most Serious Offense (Points low to high)	0	463	40
	9	107	9
	11	134	12
	13	286	25
	15	109	9
	19	56	5
Q2 – Additional Current Offense (Points low to high)	0	896	78
	2	170	15
	5	89	7
Q3 – Prior Adjudication (Points low to high)	0	912	79
	3	77	7
	4	12	1
	5	105	9
	7	12	1
	9	37	3
Q4 – Prior Escapes/Warrants/APCs (Points low to high)	0	991	86
	4	68	5
	8	94	8
	20	2	1
Q5 – Complaints/Petitions Pending (Points low to high)	0	949	82
	5	206	18

Table 1. Continued

Variable	Value	N	%
Q7 – Aggravating Factors (Points low to high)	0	556	48
	5	552	48
	10	47	4
Q8 – Mitigating Factors (Points high to low)	-8	1	1
	-7	20	1.7
	-6	1	1
	-5	380	33
	-4	292	25
	-3	36	3
	-2	359	31
	0	66	6
Total Score (Points low to high)	-7	1	1
	-5	50	4
	-4	6	1
	-3	7	1
	-2	28	2
	-1	7	1
	0	137	12
	1	36	3
	2	12	1
	3	75	6
	4	29	2
	5	23	2
	6	36	3
	7	18	2
	8	46	4
	9	37	3
	10	38	3
	11	41	3
	12	36	3
	13	68	6
	14	43	4
	15	29	2
	16	55	5
	17	20	2
	18	34	3
	19 and up	240	21
Override	0 – No	800	69
	1 – Yes	355	31
Final Decision	0 – Released	384	33
	1 – Alternative	176	15
	2 – Secure	595	52

a: Reference category is Other offense (e.g. weapon possession, disorderly conduct)

Bold indicates threshold to detain

Predicting Total Score and the Decision to Override

The first step in the analysis was to estimate the predictors of the total risk score. Ideally, the objective would be to include each of the individual criteria that make up the total risk score (such as additional current offense, aggravating factors, mitigating factors, etc.). However, doing this did not produce a stable model and thus was dropped from the analyses. The inability of the criteria being unable to predict the total score is discerning and is in need of further exploration. Instead, factors associated with the referral were included and these are gender, age, offense severity, property offense, person offense, drug offense and domestic offense to predict the dependent variable. These results are presented in column 1 of Table 2 (next page).

Being male, involved in a felony and charged with a person offense increased the chances of receiving a higher risk score. Youth charged with property offending resulted in a lower risk score. With the exception of the gender relationship, the effects that are statistically significant with the dependent variable are what you would anticipate as is the direction of those relationships.

Keep in mind that 31% percent of the cases resulted in an override. Next, we estimated the effects of the items comprising DAT3 as they relate to the decision to exercise an override. These findings are provided in column 2 of Table 2. Older youth, those charged with a felony, a person offense, and a domestic situation increased the likelihood of receiving an override. Those youth charged with a property offense or a drug offense decreased the chances of receiving an override. Cases scoring higher on the items “additional current offense” and “aggravating factors” also have inverse effects with the dependent variable. In other words, these factors decreased the odds of receiving an override. These results are opposite than what one would expect.

Table 2. Multivariate Procedures for Predicting Risk Score and Decision to Override (N=1,155)

Variable	Risk Score (1)	Override (2)
Gender	-2.05** (-0.83)	.04 (1.04)
Age	.22 (0.34)	.23** (1.26)
Offense severity	14.91** (0.76)	.80** (2.22)
Property offense ^a	-2.95** (-0.14)	-1.23** (.29)
Person offense ^a	1.73* (.09)	.85** (2.35)
Drug offense ^a	-1.78 (-.03)	-1.15* (.31)
Domestic ^a	1.14 (.05)	1.09** (.33)
Q2 – Additional Current Offense (Points low to high)	- -	-.20** (.81)
Q7 – Aggravating Factors (Points low to high)	- -	-.24** (.78)
Q8 – Mitigating Factors (Points high to low)	- -	.04 (1.04)
R ²	.55	-
-2 Log Likelihood	-	1176.22

a: Reference category is Other offense (e.g. weapon possession, disorderly conduct)

Note: Column 1 represent individual factors associated with the referral to predict total score; including specific DAT3 questions yielded unstable model

Column 1 indicates Unstandardized B and (Standardized Coefficients Beta); Column 2 indicates Beta and (Odds Ratio)

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

Since an override decision is used relatively frequently and the multivariate analyses showed some inconsistent explanatory factors of this decision, we next looked at the associations between the items “current offenses”, “aggravating factors”, “case severity” and youth charged with a “person” offense with the decision to override. By doing this, we hoped to get greater clarity on the override decision. Cross-tabulations were used and the findings are detailed in Table 3 (pg.10).

In Part A of Table 3, we can see that 34% of those scoring a “0” received an override. Twenty-six percent that scored a “2” on this item also received an override. Thus, 60% of youth who scored relatively low on the item current offenses received an override.

In Part B, 40% of those who scored a “0” on the aggravating factors items received an override. Twenty-three percent of the youth who scored a 5 on the item resulted in an override. Thus, 63% of those scoring relatively low on aggravating factors received an override decision. Thirteen percent of those that scored a 10 received an override.

Next, we looked at the relationships between severity of the offense and those charged with person offense with the override decision. In Part C of Table 3, 31% of misdemeanor cases involved an override. In Part C, 43% of person offenses received an override.

Table 3. Cross-tabulations Involving Current Offense, Aggravating Factors, Crime Severity and Person Offenses with the Decision to Override (N=1,155)

Part A: Current Offenses

Score	Override			
	No	% ^a	Yes	% ^a
0	594	66	302	34
2	126	74	44	26
5	80	90	9	10
Total	800	69	355	31

a. Percentage represents the % of overrides within each of the scoring categories (0, 2, 5)

Part B: Aggravating Factors

Score	Override			
	No	% ^a	Yes	% ^a
0	336	60	220	40
5	423	77	129	23
10	41	87	6	13
Total	800	69	355	31

a. Percentage represents the % of overrides within each of the scoring categories (0, 5, 10)

Part C: Case Severity

Offense Severity	Override			
	No	% ^a	Yes	% ^a
Misdemeanor	319	69	142	31
Felony	481	69	213	31
Total	800	69	355	31

a. Percentage represents the % of overrides within each of the offense severity

Part D: Person Offenses

Offense Type	Override			
	No	% ^a	Yes	% ^a
Other Offense	557	76	174	24
Person Offense	243	57	181	43
Total	800	69	355	31

a. Percentage represents the % of overrides within each of the offense type

These results show that a number of youth are receiving an override that score relatively low on the individual items comprising the DAT3. To get an even clearer picture of this patterning of relationships, we report the justifications provided by the decision-maker to do the override. These results differentiated by the total score are provided in Table 4.

As can be seen, possession /use of a firearm make up 34% of the justifications for the override. Open APC/Warrant from the court is next at 21%, followed by danger to the community (16%), court ordered (14%), threat of bodily harm (10%), and some form of parent guardian refusal/not being located, and not available making up the rest of the justifications for the decision to override (7%). Central to these explanations is why are these not in some form in the criteria comprising the DAT3? Furthermore, some of these justifications like danger to the community and threat to bodily harm would seem to be captured in the section on aggravating factors. In summary, the decision to override, in many aspects, does not appear to be tied to the threshold of 19 points and the individual items comprising the instrument to justify the decision to detain. Next, we look more at the predictors of the decision to detain a youth.

Table 4. Override Reasons as Provided by Decision-Maker (N=355)

Override Reason	N	%	Score Range
Possession/Use of Firearm	121	34	-5 – 18
Open APC/Warrant from Court	74	21	-3 – 18
Danger to Community	55	16	-2 – 18
Court Ordered	49	14	-5 – 26
Threat of Bodily Harm	34	10	-2 – 18
Parent/Guardian Refusal	12	3	-5 – 12
Parent/Guardian not Located	9	3	-5 – 16
Parent/Guardian not Available	1	1	8
Total	355	100	-5 – 26

Predicting the Decision to Detain

The logistic regression results to assess the determinants of the decision to detain are presented in Table 5. We first estimated models that contained based information, such as offense severity and type of offense and the listed total score with the dependent variable, followed by the estimation of a model that included the individual items contributing to the total score.

In column 1 of Table 5, being older, involved in a felony and scoring higher on the total score predict the decision to detain. Involvement with a property offense, a drug offense or a domestic offense decreases the chances of being detained. Most of these relationships is what would be expected.

In column 2 of Table 5, the results involving the individual items as they relate to the detention decision also shows a pattern that is consistent with expectations. For example, those that scored higher on the item most serious offense, additional current offense, prior adjudications, aggravating factors, etc. predict the decision to detain. But, keep in mind, most youth scored low on these items.

Table 5. Multivariate Procedures Predicting Final Decision to Detain (N=1,155)

Variable	(1)	(2)
Gender	-.32 (.21)	-.46** (.63)
Age	.34** (0.57)	.25** (1.29)
Offense severity ^a	.92** (.28)	-
Property offense ^a	-1.35** (.34)	-
Person offense ^a	.32 (.32)	-
Drug offense ^a	-1.87** (.54)	-
Domestic ^a	-2.57** (.34)	-
Q1 – Most Serious Offense	-	1.03* (1.10)
Q2 – Additional Current Offense	-	2.68** (1.30)
Q3 – Prior Adjudication	-	.08* (1.08)
Q4 – Prior Escapes/Warrants/APCs	-	.66** (1.93)
Q5 – Complaints/Petitions Pending	-	.12** (1.13)
Q7 – Aggravating Factors	-	.15** (1.17)
Q8 – Mitigating Factors (reverse)	-	.05 (1.05)
Total Score	.15** (.01)	-
R ²	.51	.43
Log Likelihood	1044.84	1148.68

a: Reference category is Other offense (e.g. weapon possession, disorderly conduct)

Note: All variables included in one model when estimated produced an unstable model; column 1 represent individual factors associated with the referral and the total score from the DAT3; column 2 represents the item comprising the total score and are taken from the DAT3. Detain is defined as 0 ‘release/alternative’ versus 1 ‘detain’.

Column 1 indicates Unstandardized B and (Standardized Coefficients Beta); Column 2 indicates Beta and (Odds Ratio)

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

Because overrides have been found for a significant number of cases scoring below the threshold of 19 points, we next looked at the relationship between this occurrence (override) and the decision to detain. As can be seen in Table 6, **sixty percent of those detained involved an override**. Keep in mind that 21% or 240 of the youth referred to the Juvenile Court scored a 19 or higher on the DAT3. Yet, an additional 60% or 355 youth were detained due to an override. This is a problem and an issue for the Juvenile Court to further explore and fix.

Table 6. Cross-tabulations Involving Final Decision and Decision to Override (N=1,155)

Decision	Override			
	No	% ^a	Yes	% ^a
Released/Alternative	560	100	0	0
Detained	240	40	355	60
Total	800	69	355	31

a. Percentage represents the % of overrides within each of the final decision categories

Recommendations

As stated in every Equal Protection Monitor Report, there are still too many youth being referred by the police to the Juvenile Court. The Juvenile Court has implemented the Summons program and the Summons Review Team (SRT) initiative to divert youth away from the Juvenile Court. This is a good first step to possibly reducing the number of youth via summons to the Juvenile Court and DMC in terms of referrals. Still, the evaluation of the DAT3 shows that a significant number of youth being transported by the police should not be received or taken in by the Juvenile Court. Many of these youth are not dangerous as evident by the case characteristics of the referrals and the final score on the DAT3.

- The Juvenile Court needs to continue to work with the police to reduce the number of youth referred to Court, especially since 93% of those referred in this study were Black;

representing a significant overrepresentation relative to their population in Shelby/ Memphis. While acknowledging that the Juvenile Court has attempted to work with the police to achieve this goal (e.g., discussions, training, etc.), it is evident that more work needs to be done.

Because of the significant number of referrals involving youth and in particular, Black youth, the Juvenile Court is the next “gatekeeper” to divert youth away from being held in secure detention. Thus,

- Greater development and use of alternatives to secure detention are needed and should be used.

A related recommendation and one that has been voiced by the Equal Protection Monitor on numerous occasions is the need to evaluate the DAT3, discuss the results, revise, re-evaluate, revise, etc. This evaluation shows that there are problems with the DAT3 and how it contributes to the DMC issue.

- There needs to be a discussion of these results that includes a strategy as to how to address the issues raised. Accordingly:
 - A revision needs to occur that changes some of the criteria and weights assigned to those criteria that comprise the DAT3.
 - The revision needs to involve a change in the override process; training and monitoring of the supervisor(s) will also need to occur.
 - The change to DAT3 should come as soon as possible.
 - The Juvenile Court needs to conduct another evaluation following the revision to DAT3. This evaluation should occur within a 6-7 month period of time.

The Equal Protection Monitor is open to coming to Memphis in January/February of 2018 to have a one to two day working meeting to help the Juvenile Court better understand the study, the results, and the recommendations.

Appendix 3

Detention Assessment Tool 3.0 (DAT3) with Scores

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Detention Assessment Tool 3.0

Child's Name: _____ Assessor: _____
 Birth Date: _____ Age _____ Assessment Date: _____
 Gender: _____ Transporting Agency: _____
 Race: _____ Juv ID: _____ Presenting Offense: _____

1. Most Serious Presenting Offense (Choose only one indicating the most serious charge)	
Class A Felony	19
Class B Felony	15
Class C Felony	13
Class D Felony	11
Class E Felony	09
Misdemeanor / Traffic / Unruly	0
2. Additional Current Offenses	
Two or more additional unrelated felony offenses	5
One additional unrelated felony offense	2
3. Prior Adjudications of Guilt (includes Informal Adjustments)	
Two or more prior adjudications of delinquency for felony offenses in the past 18 months	5
History of two or more prior adjudications of delinquency for violent or assaultive offenses	4
One prior adjudications of delinquency for a felony offense in the past 18 months	3
4. Prior Escapes/Warrants/APCs	
Prior Escape from secure hardware facility	16
Two or more petitions/attachments/warrants for FTA in prior 12 months	8
One petition/attachment/warrant for FTA in prior 12 months	4
One or more instances of absconding from non-secure court ordered placement	4
5. Complaints/Petitions Pending Adjudication or Disposition	
One or more pending petitions/complaints for a felony offense	5
6. Current Status	
Not required in DAT 3.0	0
7. Aggravating Factors	
Crime or documented threat against a person involving violence, bodily harm, or imminent threat	5
Felony sexual crime	5
8. Mitigating Factors	
Currently enrolled and attending school	-2
Successfully completed Court Ordered Program previously	-2
No Court Contact in last 24 months	-3
Currently Employed	-3
9. Total Score	

