

Appendix 1 – 4<sup>th</sup> Assessment Study  
Part of 5<sup>th</sup> Equal Protection Compliance Report  
July 3, 2015

**Brief**

A Memorandum of Agreement (MoU) regarding the Juvenile Court of Memphis and Shelby County was signed December 17, 2012 by the United States Department of Justice, Civil Rights Division, and the County Mayor and County Attorney, and the Juvenile Court of Memphis and Shelby County (JCMSC) to address the administration of juvenile justice for youth facing delinquency before the juvenile court and the conditions of confinement of youth at the detention center operated by the juvenile court. The Parties selected Dr. Michael J. Leiber as the Equal Protection Monitor of the Agreement. The Agreement requires the Monitor to assess the level of compliance by the juvenile court every six months and to produce reports. A fifth Equal Protection Monitor Report that included an Assessment Study has been completed as part of the MoU. The summary and impressions discussed reflect activities up to May 20, 2015. Below is a brief of those two reports.

In short, there exists a serious lack of progress in addressing DMC and equal protection that were the focus of the findings and conclusions by the Department of Justice (DOJ). A stronger focus and commitment on these issues on the part of the Court is necessary to make the required improvements to insure all youth are treated equitably.

It is evident that on many fronts movement as occurred— for example, the gathering of information/data, the distribution of data via the website and involvement with community agencies and activities, the implementation of objective decision-making tools, the formation of committees, the signing of an MoU with the Memphis Police Department to establish and implement a “Call in Program” (LEAP), discussions with the Memphis Police Department to establish another pilot program whereby a caseworker would be located at the Old Allen precinct to assist with referrals and services and coordinating with established programs, the use of a day/evening reporting center for those on probation and the expansion and use of SHAPE are all noteworthy strategies and activities to reduce DMC. In addition, Juvenile Court has also just developed a community out-reach plan. Last, the overall numbers of referrals to court, secure detention, and transfer to adult court have decreased.

Despite these positives, there is still room for improvement. Many of these areas of improvement have continued to exist over the last 29 months since the MoU. Most important is that DMC measured by the relative rate and in terms of equity for similar offenders, irrespective of race, HAS NOT CHANGED and continues to be a problem for the Court. First, it is important to point out that the relative rates and various studies that have been reported on over the last 2 to 3 years, including the results from the 4<sup>th</sup> assessment study to be discussed within this brief, continue to show, for the most part, that DMC is due to many factors, such as differential offending, bias (e.g., overcharging), and procedural factors (e.g., a parent unwilling to pick-up the child). Key results from the 4<sup>th</sup> Assessment study are:

- DMC continues to exist due to differential offending, bias (overcharging), and procedural or administrative factors (e.g., police referrals especially for minor offenses and domestic assaults, admission of these minor offenses into detention, etc.).

More specific findings are:

- While the number of referrals has declined over time, the racial breakdown continues to remain high.
- Likewise, although the overall number of youth held in secure detention has decreased, a racial gap remains and in fact has increased AND race still matters once all other factors are considered. More specific, Blacks charged with domestic assault and other person offenses are likely to be detained than similarly situated Whites.
- Black youth continue to be underrepresented in diversion.
- Blacks charged with person offenses at the non-judicial stage are having increased odds of being disadvantaged relative to their similar situated White counterpart.
- Black youth are overrepresented in cases adjudication and resulting in confinement in secure facilities. But, evidence of race being an influential factor once relevant legal and extralegal considerations are taken into account is not present at adjudication and judicial disposition.
- Last and although overall numbers appear to have declined, significant overrepresentation of Black youth exist for receiving Notice to Transfer to adult criminal proceedings (these numbers are high) and actual waiver to adult court.

## Recommendations

The Juvenile Court MUST take the lead on this and have a more active role or ownership in this process. A step in this direction could be the hiring of a DMC Coordinator who has the backing of the Court as well as experience with DMC issues. The Court is aware of this recommendation and need for such a person - indicated in person while on the last onsite visit and in the response to the last Settlement Agreement Coordinator Report whereby someone will be hired or appointed to spearhead the DMC problem. I strongly encourage the Court to follow through on this.

Results from the Assessment Studies reveal that the racial gap in detention still exists as does inequity in detention decisions involving Black youth relative to similarly situated White youth, especially for Blacks charged with domestic assault and person offenses. Race effects also exist at the non-judicial stage where Black youth charged with a person offense increases the chances of moving forward in the court proceedings. Thus, there is a need not only to validate the instruments used to structure decision-making at detention (DAT) and the non-judicial stage (YASI, Graduate Sanction Grid) but to make improvements/adjustments to the criteria used by

decision-makers. In actuality, these tools and the use of over-rides could be accounting for DMC and inequitable decision-making at detention and the non-judicial stage. A focus on race, domestic assaults, person offenses and what constitutes danger to the community would be starting points in this adjustment process. In essence, the Court needs to address the following questions: (1) are the structured decision-making tools being administered properly (e.g., overrides)? And (2) are the tools and the criteria comprising the tools designed to reduce DMC and to ensure decision-making that result in equal protection?

It is recommended that the Court should either hire or appoint someone to lead the Community Out-Reach or have this component part of the responsibilities of the hire or appointment of the “DMC Coordinator or Monitor” discussed above. He or she is strongly encouraged to work with the Shelby County DMC Coordinator and the representative for JDAI as well as the Consortium.

The Memphis/Shelby County Court has made efforts to reduce DMC and race disparities. A lot of work, however, still remains to be done most notably at stages of referral, detention, non-judicial and notice of transfer to adult court to address DMC and ensure equitable treatment of all youth.

## Background

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

### *DOJ Findings Prior to Agreement and Assessment Studies by Leiber*

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

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

by DOJ, is provided in Table 1 differentiated by the time of the study, relative rate information, and findings.

**Table 1.** Summary of RRI Data and Multivariate Logistic Regression for Four Studies

*DOJ – Assessment Study (2005-2009, 2010 data)*

	RRI	Multivariate Results
Referral to Court	Overrep.	
Secure Detention	Overrep.	Blacks more likely to be detained
Diversion	Underrep.	Blacks less likely to be diverted
Petition	Overrep.	Blacks more likely to be referred
Adjudication	Overrep.	
Confinement in secure facilities	Overrep.	
Out-of-Home Placement		
Waiver/Transfer to Adult Court	Overrep.	Blacks more likely to be waived

*Leiber – 1<sup>st</sup> Assessment Study (July 1, 2012 - June 30, 2013 data)*

	RRI	Multivariate Results
Referral to Court	Overrep. increase	
Secure Detention	Overrep. decline	No race effect
Diversion	Underrep. steady	No race effect
Petition	Underrep. decline	Blacks more likely referred
Adjudication	Overrep. decline	Blacks with more charges more likely to be adjudicated
Confinement in secure facilities	Underrep. decline	
Out-of-Home Placement		Blacks who are older more likely to receive out-of-home, Whites who are older home more likely to receive probation Blacks who are detained more likely to receive out-of-home
Waiver/Transfer to Adult Court	Mostly Black	Lack of variation to examine

*Leiber- 2<sup>nd</sup> Assessment Study (2013 data)*

	RRI	Multivariate Results
Referral to Court	Overrep. increase	
Secure Detention	Overrep. increase	Blacks involved in person crime more likely to be detained
Diversion	Underrep. steady	No race effect
Petition	Overrep. steady	No race effect
Adjudication	Overrep. decline	Black females more likely to be adjudicated Whites involved in person crime more likely to be adjudicated
Confinement in secure facilities	Underrep. decline	
Out-of-Home Placement		Whites who are older more likely to receive probation Whites from single-parent home more likely to receive probation
Notice/ Waiver/Transfer to Adult Court	Mostly Black	Lack of variation to examine

Table 1. continued

*Leiber- 3rd Assessment Study (July 1,2013 through June 30, 2014, data)*

	RRI		Multivariate Results
Referral to Court	Overrep.	steady/high	
Secure Detention	Overrep.	increase	Blacks involved in person crime more likely to be detained Blacks/greater # of charges more likely to be detained Whites/domestic assault less likely to be detained
Diversion	Underrep.	steady	Blacks more likely to be warned Blacks less likely to be diverted White/drug offender more likely to be warned
Petition	Overrep.	steady	No race effect
Adjudication	Overrep.	decline	No race effect
Confinement in secure facilities	Overrep.	increase	No race effect
Out-of-Home Placement			
Waiver/Transfer to Adult Court	Mostly Black		Lack of variation to examine

Note: Trends of the RRI involve the examination of Table 1 from 2009 through 2014

Constant findings from the four past studies are:

- Referrals by the police/schools to the juvenile court have remained high and efforts need to be made to divert youth and in particular, Blacks, especially for domestic assaults, away from coming into contact with the court.
- Efforts of reform at detention appear to be taking place, to some degree, as evident in the decline in the RRI and the finding from the multivariate analyses of no direct race influence at this stage. However, **a racial disparity in the use of secure detention remains and race was found to interact with a number of independent variables, such as being charged with a person offense**, that result in Blacks being more likely to be detained than similar Whites. Similar to referrals, continued efforts need to be made at detention to reduce the number of youth and type of offender (i.e., minor offense, misdemeanor, **domestic assault**) who comes into contact with the system.
- Likewise, although race effects were not found at several decision-making points or stages, continuation in efforts are needed to address equity issues in the form of structured decision-making involving decisions at detention, non-judicial case outcomes, and adjudication.
- Although the overall number of youth reaching the waiver stage via notice and those waived to adult court has declined, **almost all of the youth recommended and waived are Black.**

In this fourth assessment by Leiber, trends in the form of numbers and the relative rate indexes are first presented to examine the extent or level of DMC. Next, results from the fourth assessment study (since the agreement) using logistic regression are provided to tap into the possible causes of DMC. Discussion is provided comparing and contrasting trends in the results from the assessment studies.

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

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

- (1) Juvenile Arrests  
This stage consists of all juvenile arrests. Arrest is not a focus of this study.
- (2) Referrals to Juvenile Court  
This category includes children who are brought before the juvenile court on delinquency matters either by a law enforcement officer, a complainant (including a parent), or by a school.
- (3) Cases Diverted  
This category includes children who are referred to juvenile court, but whose matters are resolved without the filing of formal charges. The charges against these children may be dismissed, resolved informally, or resolved formally through probation, an agreement, community service or various other options that do not include continuing through the formalized court process.
- (4) Cases Involving Secure Detention Prior to Adjudication  
This category includes children who are held in a secure detention facility before the final disposition of their cases. Some jurisdictions include children who are awaiting placement following the disposition of their cases in this category.
- (5) Cases Petitioned  
This category includes children who are formally charged with a delinquency matter and are required to appear on the court calendar. When a child is formally petitioned, the court is requested to adjudicate the matter or transfer the matter to the criminal court.
- (6) Cases Resulting in Delinquent Findings  
This stage encompasses a court finding that the child has been found delinquent, a formal finding of responsibility. The child would

then proceed to a dispositional hearing where he or she may receive various sanctions including probation or commitment to a secure residential facility.

(7) Cases Transferred to Adult Criminal Justice System

This category consists of cases that have been transferred to the adult criminal court following a judicial finding that the matter should be handled outside of the juvenile system.

(8) Cases Resulting in Probation

This category includes cases where the child is placed on probation following a formal adjudication. This does not include the children whose cases were diverted earlier in the process.

(9) Cases Resulting in Confinement in Secure Juvenile Correctional Facility

This category includes cases where the child has been formally adjudicated and placed in a secure residential facility or a juvenile correctional facility.

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

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

The first step in determining RRI is to determine the total number of events, categorized by race, in each phase of the juvenile court system. Then, for each racial or ethnic category, the RRI formula divides the number of events for each phase by the number of events in the preceding phase to determine rates for each phase. This means that the RRI is calculated by comparing the rates for Black children to rates for White children by dividing the rate of Black children by the rate for the White children. For example, if a system incurred 20 juvenile arrests consisting of 10 White children and 10 Black children, and all 10 of the Black children were referred to juvenile court, but only 5 of the White children were referred, then the resulting rate of referral to juvenile court for Black children would be 1.0, and the rate for white children would be 0.5. The resulting RRI would equal 2.0, a value twice that of the neutral 1.0. RRI values that differ from the neutral 1.0 are marked as statistically significant, meaning that the



difference in rates of contact is not likely to be the result of a chance or random process. Recall that the RRI does not control for the differences in the children's underlying charges.

### **Relative Rates Index (RRI) 2009 through 2014**

Presented in Table 2 (located on the next page) are the relative rate indexes for the years 2009 through 2014. Data for 2009 was taken from the Investigation of the Shelby County Juvenile Court (2012) which was based on data submitted by Shelby to the state of Tennessee. Data for 2010 through 2014 was provided by the Juvenile Court of Memphis and Shelby County (JCMSC).

As can be seen in Table 2 (page 8), **Black youth are disproportionately represented in 5 of 7 stages:** referral to the juvenile court, secure detention, cases petitioned, cases resulting in delinquent findings, and those placed in confinement in secure facilities. Black youth are underrepresented in cases diverted. The following narrative summarizes these results.

1. The relative rate index involving **referrals to court** remains high at 4.38. In other words, a little over 4 Black youth per 100 youth are referred relative to 1 White youth per 100 youth. Thus, the number of referrals for both Whites and Blacks are down which is good. But, the relative overrepresentation of Black youth to White youth in **court referrals continues to be an issue that has shown relatively no change over the last 6 years.**
2. **Black youth continue to be underrepresented for cases diverted.** In 2009, the RRI was .90, in 2014, the RRI is .92.
3. RRI values pertaining to secure detention initially showed a decline from 2.1 in 2009 to 1.32 in 2012. But in 2013 and through 2014, an increase in disparities related to secure detention is evident at 1.64 and 2.02, respectively. Although the overall number of youth involving secure detention has reduced significantly over the years for both White and Black youth (2009 to 2012 compared to 2013 and 2014), **Blacks are still being detained more so relative to Whites.** This is an area that the Court will need to continue to address.
4. For 2013 and through 2014, the RRI's for cases petitioned shows overrepresentation and has been steady at 1.46 and 1.69, respectfully.
5. The relative rate resulting in **delinquent findings show a decline** - for 2013, 1.16 and 1.18 for 2014 compared to 2.11 in 2012.
6. **No statistically significant race differences exist for cases resulting in probation.**
7. Rates for cases resulting in confinement in secure juvenile facilities began to show a decline from 1.7 in 2009 to 1.30 in 2012 and 1.05 in 2013. The reduction in the RRI's

overtime and in particular for 2013 is especially noteworthy. **In 2014, the relative rate shows an increase to 1.50.**

8. In terms of the relative rate, youth waived to adult court has remained relatively the same from 2009 to 2012 (2.3 in 2009, 2.23 in 2012). RRI analyses for this decision stage were not conducted for the year 2013 or 2014 as the number of cases was insufficient. It is important to point out that based on data from the Court while the disparity between Whites and Blacks appears to have stayed relatively the same over the years, the number of youth waived to adult court has declined from 225 in 2008, to 199 in 2009, 151 in 2010, 121 in 2011, 99 in 2012, 90 in 2013 and 77 in 2014. But, the number of youth recommended for a waiver is high at 256 in 2013 and 190 for 2014. **More specific, of the 190 youth, 13 were White and 2 Whites were waived to adult court compared to 73 Blacks.**

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

Table 2 – Relative Rate information next page

**Table 2.** Rates of Juvenile Court Actions by Race, and Relative Rate Index, 2009-2014

	2009			2010			2011			2012			2013			2014		
Decision Stage (and base rate for calculation)	White <sup>a</sup>	Black	RRI	White	Black	RRI	White	Black	RRI	White	Black	RRI	White	Black	RRI	White	Black	RRI
1.Refer to Juvenile Court (per 1000 population)	48.4	166.9	<b>3.4</b>	39.1	142.6	<b>3.65</b>	32.4	137.6	<b>4.25</b>	26.1	115.4	<b>4.42</b>	23.8	120.4	<b>5.06</b>	22.7	99.42	<b>4.38</b>
2. Cases Diverted (per 100 referrals)	114.5	104.1	<b>0.9</b>	81.3	77.6	<b>0.95</b>	94.5	78.3	<b>0.83</b>	85.2	79.5	<b>0.93</b>	95.2	84.0	<b>0.88</b>	94.8	86.9	<b>0.92</b>
3. Cases Involving Secure Detention (per 100 referrals)	27.8	59.5	<b>2.1</b>	33.7	56.3	<b>1.67</b>	30.8	50.9	<b>1.65</b>	34.1	45.0	<b>1.32</b>	10.4	17.0	<b>1.64</b>	9.4	19.0	<b>2.02</b>
4. Cases petitioned (charge filed per 100 referrals)	29.9	36.4	<b>1.2</b>	41.4	35.3	<b>0.85</b>	27.5	41.1	<b>1.49</b>	59.6	43.4	<b>0.73</b>	16.4	24.1	<b>1.46</b>	15.9	26.9	<b>1.69</b>
5. Cases Resulting in Delinquent Findings (per 100 referrals)	54.3	72.2	<b>1.3</b>	25.2	50.4	<b>2.00</b>	31.7	45.8	<b>1.44</b>	22.7	48.0	<b>2.11</b>	54.6	63.4	<b>1.16</b>	59.0	69.9	<b>1.18</b>

Table 2. continued

	2009			2010			2011			2012			2013			2014		
6. Cases resulting in Probation Placement (per 100 found delinquent)	22.8	22.5	1.0	77.1	70.0	<b>0.91</b>	70.4	72.9	1.04	78.0	75.4	0.97	67.6	70.6	1.04	62.3	65.7	1.05
7. Cases Resulting in Confinement in Secure Juvenile Facilities (per 100 found delinquent)	14.2	23.9	<b>1.7</b>	6.4	7.6	<b>1.19</b>	4.1	7.2	<b>1.76</b>	6.5	8.5	<b>1.30</b>	23.9	25.2	1.05	15.9	24.0	<b>1.50<sup>b</sup></b>
8. Cases Transferred to Adult Court (per 100 referrals)	2.3	5.3	<b>2.3</b>	2.0	5.7	<b>2.86</b>	2.6	3.7	<b>1.42</b>	1.5	3.3	<b>2.23</b>	0.0	6.4	-	0.9	5.4	-

a: Juvenile Justice Rates of Occurrence

b: Out-of-home placement sentence issued, data specifying secure confinement unavailable

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

Note: Data for 2009 taken from *Investigation of the Shelby County Juvenile Court*, April 26, 2012. Data for 2010-2014 provided by Juvenile Court of Memphis and Shelby County (JCMSC). How to read relative rate index (RRI), for example, refer to juvenile court 3.4 Blacks to 1 White.

## Logistic Regression Results

An examination of the relative rate indexes, especially for 2013 and 2014, show that DMC still exists. The RRI's reveal overrepresentation at referral to the juvenile court, secure detention, cases petitioned, cases resulting in delinquent findings, and those placed in confinement in secure facilities referral. Although in decline, Blacks comprised most of the youth that received a notice for waiver to adult court. Recall that the RRI provides information concerning the extent of DMC and does not inform us of the causes of DMC. Next, multivariate analyses in the form of logistic regression, is used to give added insight into the predictors of case outcomes or the underlying causes of DMC. The DOJ study and the first three assessment studies by Leiber reported evidence of selection bias once this statistical technique was utilized. The purpose of this fourth assessment study is to examine the extent to which race still matters once legal (i.e., crime severity) and extralegal (i.e., age) factors are considered.

### Data for the Current Study

For the purpose of this study, data was obtained directly from the Juvenile Court. This data was cleaned for the objective of conducting the research. More specific, raw data of all delinquent referrals in Shelby County for the year 2014 (N=107,313) were provided. The dataset was converted from Excel to SPSS format and all analyses were conducted using the SPSS statistical software.

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

The final data consists of N=7,214 distinct referrals for the one year period of January 1, 2014 through December 31, 2014. The data distributions parallel the Shelby county Court data by distinct complaints, as evidenced in Table 2 on the next page (page 14).

**Table 3.** Data and Distributions by Stages from January through December 2014

Stages <sup>c</sup>	<u>Shelby Juv. Court<sup>a</sup></u> (N=7,370) N	<u>Leiber<sup>b</sup></u> (N=7,214) N
Detention		
No	6,066	6,016
Yes	1,304	1,198
Non-judicial		
Yes	6,508	5,366
No	862	1,848
Adjudication		
No	579	374
Yes	1,294	1,474
Judicial disposition		
Probation	850	1,276
Placement	305	198
Waiver		
No	----	165
Yes	77	69

a: Shelby county data counted by distinct complaints as taken from JCMSC 2014 RRI Report

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

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

---- Information not provided

## Variables

Table 4 provides the independent and dependent variables used for the logistic regression analyses. The selection of variables was based on available data, the DOJ study, and past research dealing with assessment studies. The first assessment study and the present assessment study include independent variables (e.g., prior referrals, summons, custody) and stages (e.g., adjudication, judicial disposition) not included in the DOJ study. The inclusion of these variables was done to provide a more detailed examination of the factors that may impact decision-making and possibly provide a better context for understanding the presence and/or absence of bias.

Independent. Eighty-eight percent of the sample is Black. Males comprise 72 percent of the sample and the average age of youth is 15 years old. Two measures of school status are used: attending school v. else and whether the youth was in special education. Ninety-one percent of the sample was reported to be in school full-time while just 9 percent were in special education. The current living situation of a youth is captured by two dummy variables: own home with one parent and home of relatives. Living in his/her own home with two parents is the reference group for both variables. Seventy-eight percent of the youth reside in their own home with one parent, 12 percent live at home with both parents and 10 percent live with relatives.

The extent of past involvement with the juvenile justice system is measured by the number of prior referrals. While the juvenile court collects information on each referral, a variable representing the number of prior referrals does not exist. Data was gleaned using data from 2010 through 2014 to create this variable. Thus the count making-up prior referral could be underestimated. Still, on average the sample evidenced a bit more than 1¾ prior referrals and variation on the variable is present ranging from no past referrals to 10 or more past referrals.

Referral method is treated as a dummy variable with summons representing one variable and custody the second variable. In both instances, the reference group is other. Sixty-three percent of the sample was referred by a summons while 34 percent were taken into custody. The number of charges, crime severity, and four indicators of crime type are also included as legal variables. The average number of charges is a little over 1; most offenses are classified as a misdemeanor (77%) and the most common crime type is a person offense (41%), followed by a property offense (34%), drugs (10%), and domestic (9%). The reference category for the four crime type variables is other.

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

Non-judicial is differentiated by yes (receive some type of non-judicial outcome – diversion, fine, release, etc.) and no (moving forward in the court proceeding thus recipient of a judicial outcome). Seventy-four percent of the sample received a non-judicial outcome; thus a significant percent of youth are diverted away from the system. Following the DOJ report, the non-judicial option is further delineated to examine decision making involving warning (no, yes), 77 percent, and diversion (no, yes), 2 percent. The reference group for both variables is dismissed. Formal stages are represented by adjudication and judicial disposition. Eighty percent of the youth that reach adjudication are adjudicated delinquent. Eighty-seven percent received probation at judicial disposition whereas only 13 percent received an outcome involving out-of-home placement.

Waiver. In the DOJ report race was found to be a predictor as Blacks were more likely than similarly situated Whites to be waived. In our sample, there was not enough variation among race (i.e., not enough Whites) and numbers to run models for the decision to waive youth for 2014. Looking at waiver hearing data to possibly collapse data for 2012, 2013 and 2014 also failed to produce enough variation. Almost all youth that received a notice and actually waived were Black.

Table 4 next page



**Table 4.** Distribution of Variables (N=7,214)

Variable	Value	N	%
<i>Independent</i>			
Race	0 - White	831	12
	1 - Black	6383	88
Gender	0 - Male	5194	72
	1 - Female	2020	28
Age (young to old)	Years	M = 15.13 SD = 1.86 Range = 7-18	
School status	0 - In school full-time	6572	91
	1 - Else	642	9
Special education	0 - No	6594	91
	1 - Yes	620	9
Current living situation <sup>a</sup>	0 - Own home, two parents	842	12
	1 - Own home, one parent	5621	78
	2 - Home of relatives	751	10
Prior referrals (low to high)	Number	M = 1.78 SD = 2.43 Range = 0-10	
Referral method <sup>b</sup>	0 - Summons	4558	63
	1 - Custody	2482	34
	2 - Other	174	3
# Charges (low to high)	Number	M = 1.15 SD = 0.50 Range = 1-10	
Crime severity	0 - Misdemeanor	5544	77
	1 - Felony	1670	23
Property <sup>c</sup>	0 - No	4786	66
	1 - Yes	2428	34

**Table 4.** continued

Variable	Value	N	%
Person <sup>c</sup>	0 - No	4286	59
	1 - Yes	2928	41
Domestic <sup>c</sup>	0 - No	6595	91
	1 - Yes	619	9
Drugs <sup>c</sup>	0 - No	6496	90
	1 - Yes	718	10
<i>Dependent</i>			
Detention <sup>d</sup>	0 - No	6016	83
	1 - Yes	1198	17
Non-judicial	0 - Yes	5366	74
	1 - No	1848	26
Warn	0 - No	1249	23
	1 - Yes	4117	77
Diversion	0 - No	5234	98
	1 - Yes	132	2
Adjudication	0 - No	374	20
	1 - Yes	1474	80
Judicial disposition	0 - Probation	1276	87
	1 - Out of home placement	198	13

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

b: Variable will be treated as dummy variable; Other reference group.

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

d: Treated as both independent and dependent variable.

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

## Analysis Procedures

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

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

## Findings

Detention. Table 5 (page 18) presents the logistic regression result for estimating the decision to detain. In the present study, while race does not have a statistically significant main effect with detention outcomes (column 1), there is once again the presence of an interaction effect involving race and being charged with a person offense (column 2, column 3). In column 2, White youth charged with a person offense is inverse and statistically significant. In column 3, Black youth charged with a person offense is positive and statistically significant. In fact, **Black youth involved in a person offense increases the likelihood of being detained by over 1<sup>1</sup>/<sub>2</sub> times** relative to all other youth. Estimations for other interactions produced evidence of three additional statistically significant relationships between race with the number of charges, domestic assault, and youth charged with a drug offense with the dependent variable. **Blacks who have a greater number of charges increased the odds of being detained by 36%** than similarly situated Whites. White youth involved in domestic assaults have a **decreased** likelihood of being detained by 93% **whereas** for Blacks, domestic assault **increased** the likelihood of being detained by 44%. Last, being White and charged with drug offending substantially **decreased** the chances of being detained (by 95%). Most of the legal and extralegal variables predict detention as one would expect. For example, crime severity is predictive of detention.

**Overall, in 4 of 5 assessment studies race has been found either individually or in combination with other factors, such as person offense, to influence the decision to detain net considerations of other variables.** Recall that the DOJ study reported a strong relationship between race and detention in that Black youth were almost 2<sup>3</sup>/<sub>4</sub> times more likely to be detained

than similarly situated White youth. In the first assessment study by Leiber, race was not found to be a statistically significant predictor of the detention decision once all legal and extralegal factors were taken into account. In Leiber's second and third assessment studies, Black youth involved in a person offense increased the likelihood of being detained by over two times relative to all other youth net controlling for other factors, including domestic assault cases.

--Table 5 next page--

**Table 5.** Logistic Regression Results - Detention (N=7,214)

Variable	Full Model (1)	White (2)	Black (3)
Race	.03 <sup>a</sup> (1.03)	-	-
Gender	<b>-.27**</b> (.76)	-.36 (.70)	<b>-.25*</b> (.78)
Age	.02 (1.02)	-.01 (.99)	.02 (1.02)
School status	<b>.54**</b> (1.72)	.33 (1.39)	<b>.54**</b> (1.72)
Special education	-.16 (.86)	.89 (2.44)	<b>-.19*</b> (.83)
Own home, one parent	.14 (1.15)	-.23 (.80)	.18 (1.20)
Home of relatives	<b>.47**</b> (1.60)	.61 (1.83)	<b>.45*</b> (1.56)
Prior referrals	<b>.21**</b> (1.23)	<b>.30**</b> (1.35)	<b>.21**</b> (1.24)
Summons	<b>-2.83**</b> (.06)	<b>-4.11**</b> (.02)	<b>-2.49**</b> (.08)
Custody	<b>.71**</b> (2.03)	-.12 (.89)	<b>.97*</b> (2.65)
# Charges	<b>.19**</b> (1.21)	-.18 (.84)	<b>.31**†</b> (1.36)
Crime severity	<b>1.38**</b> (3.96)	<b>1.58**</b> (4.84)	<b>1.43**</b> (4.17)
Property	<b>-.96**</b> (.38)	<b>-3.00**</b> (.05)	<b>-.75**</b> (.47)
Person	.22 (1.24)	<b>-1.49*</b> (.23)	<b>.41**††</b> (1.50)
Domestic	.11 (1.11)	<b>-1.75**</b> (.17)	<b>.36*††</b> (1.44)
Drugs	<b>-.73**</b> (.48)	<b>-3.06**</b> (.05)	-.46 <sup>††</sup> (.63)
-2 Log Likelihood	3571.44	235.50	3284.24

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

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

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

Non-judicial. Table 6 (next page) presents the logistic regression results for predicting the decision to first use a non-judicial outcome versus further court processing, followed by models differentiating among non-judicial outcomes (warning, diversion versus release). Race is a positive statistically significant predictor of non-judicial decision-making (column 1) and a warning (column 2). Being **Black increased the odds of receiving a recommendation for further court proceedings (by 62%)** once controls were considered (column 1). As can be seen in column 1, a race interaction relationship also exists with person offense and decision-making at this point. That is, **Blacks charged with a person offense increased the odds by 3.42 of receiving the more severe case intake outcome.**

If a non-judicial outcome is given, **Blacks are more likely to receive a warning** by the odds of .34 than Whites net controls (column 4). Two race interaction relationships are also evident with the dependent variable. **For Whites**, residing with a single-parent decreased the likelihood of receiving a warning while being charged with a drug offense increased the odds of receiving such an outcome.

While there is no direct race effect with the decision to grant diversion, an interaction relationship exists between **being White** and residing in a single-parent household (column 8). Whites who come from such a household increased the odds of receiving diversion.

In the DOJ assessment study, Blacks were found to be less likely than similarly situated Whites to receive a warning and a fine, restitution or public service sanction. Or, in other words, Blacks were more likely than Whites to be referred for further juvenile court proceedings once controls were considered. The results from Leiber's first assessment study showed that this effect remained. Blacks were 1 ½ times more likely than Whites to be referred to a court hearing net controls. In the second and third assessment study by Leiber, race was not a statistical significant determinant of the decision to be referred further on at this stage. In the present research, the results paralleled those from the DOJ study and the first assessment study. **Thus, in 3 of 5 assessment studies, race had a direct relationship with the non-judicial decision.**

In the first assessment study by Leiber, differentiating among the non-judicial case options with warning as one variable and diversion as another variable with release as the reference group failed to produce evidence of race main or interaction effects with the dependent variables. Similarly no main or interaction relationships were evident in the second study. These results were interpreted as differing from those reported by DOJ because of several factors: (1) the studies by Leiber took into account more variables or information about the youth, (2) different data was used, and (3) as stated previously, the Court, as a result of the Agreement and efforts taken, had attempted to correct for the bias in decision-making at this stage. The findings from the third assessment study by Leiber showed that Black youth were less likely to participate in diversion than similar White youth. In the present study, no such relationship was found. As in the third assessment study, Blacks were found more likely than Whites to receive a warning.

**Table 6.** Logistic Regression Results - Non-Judicial

Variable	Non-Judicial			Warn			Diversion		
	Full (1)	White (2)	Black (3)	Full (4)	White (5)	Black (6)	Full (7)	White (8)	Black (9)
Race	<b>.48**</b> (1.62)	-	-	<b>.29*</b> (1.34)	-	-	-.45 (.64)	-	-
Gender	<b>-.65**</b> (.52)	-.18 (.83)	<b>-.69**</b> (.50)	.12 (1.13)	-.05 (.95)	.13 (1.14)	-.37 (.69)	.29 (1.34)	<b>-.56*</b> (.57)
Age	<b>.09**</b> (1.10)	.05 (1.05)	<b>.09**</b> (1.10)	-.01 (.99)	.02 (1.02)	-.01 (.99)	<b>.15**</b> (1.16)	.18 (1.20)	<b>.15**</b> (1.17)
School status	<b>.45**</b> (1.56)	.55 (1.73)	<b>.45**</b> (1.56)	<b>-.40**</b> (.67)	<b>-.84*</b> (.43)	<b>-.33*</b> (.72)	-.35 (.70)	.20 (1.22)	-.52 (.60)
Special education	-.16 (.86)	-.28 (.76)	-.14 (.87)	.10 (1.11)	-.78 (.46)	.17 (1.18)	-.55 (.58)	<sup>b</sup> -	-.46 (.63)
Own home, one parent	<b>.36**</b> (1.43)	.64 (1.89)	<b>.27*</b> (1.32)	<b>-.37**</b> (.69)	<b>-1.00**</b> (.37)	-.25 <sup>†</sup> (.78)	<b>.63*</b> (1.88)	<b>2.04**</b> (7.70)	.21 <sup>†</sup> (1.23)
Home of relatives	<b>.60**</b> (1.82)	1.00 (2.71)	<b>.51**</b> (1.67)	<b>-.36*</b> (.70)	.93 (2.53)	<b>-.36*</b> (.70)	.64 (1.90)	<sup>b</sup> -	.48 (1.61)
Prior referrals	<b>.41**</b> (1.50)	<b>.70**</b> (2.00)	<b>.39**</b> (1.48)	<b>-.24**</b> (.79)	<b>-.28**</b> (.75)	<b>-.24**</b> (.79)	.01 (1.01)	-.17 (.85)	.02 (1.02)
Summons	<b>-1.44**</b> (.28)	<b>-1.38*</b> (.25)	<b>-1.38**</b> (.25)	<b>2.30**</b> (9.98)	<b>2.53**</b> (12.60)	<b>2.31**</b> (10.05)	<sup>b</sup> -	<sup>b</sup> -	<sup>b</sup> -
Custody	<b>-.73*</b> (.64)	.12 (1.12)	-.43 (.65)	.25 (1.28)	-.42 (.66)	.34 (1.40)	<sup>b</sup> -	<sup>b</sup> -	<sup>b</sup> -
# Charges	<b>.38**</b> (1.47)	.12 (1.13)	<b>.46**</b> (1.59)	.12 (1.13)	.48 (1.61)	.06 (1.06)	-.08 (.93)	-.20 (.82)	.01 (1.00)

Table 6. continued

Variable	Non-Judicial			Warn			Diversion		
	Full (1)	White (2)	Black (3)	Full (4)	White (5)	Black (6)	Full (7)	White (8)	Black (9)
Crime severity	<b>2.05**</b> (7.76)	<b>2.46**</b> (11.72)	<b>2.04**</b> (7.73)	-.15 (.86)	-.16 (.85)	-.12 (.88)	-.10 (.90)	-.50 (.61)	-.01 (.99)
Property	<b>.55**</b> (1.73)	-.44 (.64)	<b>.60**</b> (1.83)	-.07 (.94)	.22 (1.24)	-.10 (.90)	<b>1.41**</b> (4.10)	<b>1.79*</b> (5.97)	<b>1.38**</b> (3.96)
Person	<b>1.18**</b> (3.26)	.14 (1.15)	<b>1.23**†</b> (3.42)	-.06 (.94)	.40 (1.49)	-.09 (.91)	<b>1.33**</b> (3.79)	.28 (1.32)	<b>1.54**</b> (4.65)
Domestic	.22 (1.25)	.30 (1.34)	.21 (1.23)	<b>-.30*</b> (.74)	.57 (1.76)	<b>-.38*</b> (.68)	-.06 (.94)	- <sup>b</sup> -	.20 (1.22)
Drugs	<b>.76**</b> (2.13)	-.07 (.93)	<b>.88**</b> (2.40)	<b>.01**</b> (1.67)	<b>1.33**</b> (3.77)	.22 <sup>†</sup> (1.25)	.64 (1.89)	-.14 (.87)	<b>1.16*</b> (3.18)
-2 Log Likelihood	4903.43	368.90	4497.07	4624.79	500.47	4088.30	1188.10	186.05	978.06

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

b: Insufficient cases, variables dropped from analysis

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

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



Adjudication. Table 7 provides the logistic regression results for understanding adjudication decision-making. In the present assessment study, **race once again does not have a statistical direct effect on adjudication outcomes** (column 1). Further, tests involving coefficient comparisons **also failed to produce evidence of race differences in the relative effects of the independent variables with adjudication.**

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

Judicial Disposition. In the right side of Table 7, the logistic regression results for predicting judicial disposition outcomes are presented. In the present assessment study and consistent with the previous three assessment studies, **race is not a statistically significant determinant of judicial decision-making.** Tests for the presence of race combination relationships with independent variables also failed to show the existence of such effects with the dependent variable.

In the first assessment study by Leiber, race had no main relationship with the dependent variable. However, two race interaction relationships were reported. Older Whites had a reduced probability of a receiving an out-of-home placement than older Blacks who had an increased odds of such an outcome. Being detained had also significant positive relationship with the dependent variable (increased odds of being taken out of the home). This effect was conditioned by race. Blacks held in detention had an increased likelihood of receiving the more severe judicial outcomes than similarly situated White youth once controls were taken into account. In the second assessment study, once again race was not a statistically significant determinant of judicial disposition decision making. Differentiating the results by race, tests comparing coefficients produced two statistically significant interaction relationships. As in the first assessment study, older Whites had decreased odds of receiving an out-of-home placement than other youth, including Blacks. White youth from a single-parent home were found to be less likely to receive the more severe judicial disposition outcome than similarly situated Black youth. Again, these relationships were not found in the present study.

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

**Table 7.** Logistic Regression Results - Adjudication, Judicial Disposition

Variable	Adjudication			Judicial Disposition		
	Full (1)	White (2)	Black (3)	Full (4)	White (5)	Black (6)
Race	.16 (1.17)	-	-	-.21 (.81)	-	-
Gender	.39 (1.47)	.95 (2.58)	.38 (1.46)	-.37 (.69)	-.60 (.55)	-.46 (.70)
Age	<b>-.32**</b> (.73)	-.53 (.59)	<b>-.33**</b> (.72)	.02 (1.02)	1.07 (2.92)	.01 (1.01)
School status	-.05 (.95)	.11 (1.12)	-.03 (.97)	.06 (1.06)	.88 (2.42)	-.02 (.98)
Special education	.34 (1.40)	1.86 (6.41)	.29 (1.34)	-.01 (1.00)	<sup>b</sup> -	-.12 (.89)
Own home, one parent	-.02 (.98)	-1.45 (.23)	.02 (1.02)	-.01 (.99)	2.03 (7.60)	.07 (.93)
Home of relatives	-.05 (.96)	-2.01 (.13)	-.04 (.97)	-.19 (.83)	<sup>b</sup> -	-.22 (.80)
Prior referrals	.01 (1.00)	.28 (1.33)	-.01 (.99)	<b>.27**</b> (1.31)	<b>.45*</b> (1.57)	<b>.27**</b> (1.31)
Summons	<b>.55*</b> (1.73)	<b>-3.48*</b> (.03)	<b>.74**</b> (2.10)	<b>-.82*</b> (.44)	<sup>b</sup> -	<b>-.96*</b> (.38)
Custody	<b>.91**</b> (2.48)	-2.11 (.12)	<b>1.06**</b> (2.88)	<b>-.98**</b> (.37)	-1.89 (.15)	<b>-1.05**</b> (.35)
# Charges	-.10 (.91)	-.38 (.69)	-.08 (.92)	-.01 (1.00)	<b>.85*</b> (2.34)	-.10 (1.29)
Crime severity	-.04 (.96)	1.78 (5.96)	-.06 (.94)	.12 (1.13)	1.22 (3.37)	.09 (1.09)
Property	.32 (1.38)	.08 (1.09)	.26 (1.30)	.07 (1.07)	<sup>b</sup> -	.02 (1.02)
Person	<b>-.61**</b> (.54)	.40 (1.48)	<b>-.73**</b> (.48)	.21 (1.23)	<sup>b</sup> -	.20 (1.22)
Domestic	<b>.97*</b> (2.63)	1.85 (6.34)	.91 (2.48)	-.18 (.84)	<sup>b</sup> -	-.14 (.87)
Drugs	.32 (1.37)	<b>2.78*</b> (16.04)	.08 (1.09)	.29 (1.34)	<sup>b</sup> -	.31 (.72)
Detention	<b>-.89**</b> (.41)	<b>-2.57**</b> (.08)	<b>-.85**</b> (.43)	<b>1.66**</b> (5.28)	<b>4.24*</b> (69.27)	<b>1.65**</b> (5.20)
-2 Log Likelihood	1669.82	82.66	1563.43	950.18	30.96	904.51

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

b: Insufficient cases, variables dropped from analysis

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

Note: Tests of z coefficients across race-specific models failed to yield statistical significance for adjudication and judicial disposition.

## Summary and Conclusions

Using data from the state of Tennessee for the years 2005 through 2009, and to some extent 2010, the DOJ study found and reported the presence of DMC at almost every stage. In subsequent analysis using data from Shelby County, the DOJ findings letter reported that the presence of DMC was not accounted for solely by legal and extralegal considerations, especially at detention, the use of non-judicial outcomes in the form of warning and diversion and at the transfer to adult court hearing. In his first assessment study, Leiber used data given by the Memphis/Shelby County Juvenile Court and cleaned by Leiber for the time-frame ranging from July 1, 2012 through June 30, 2013, and reported somewhat similar results. In the second assessment study covering court decision making for the entire year 2013 by Leiber, several themes continued to exist. In a 3<sup>rd</sup> assessment study using data from July 1, 2013 through June 30, 2014 similar patterns from the previous 2 assessments and the DOJ study were evident. Recall that a summary of these studies is discussed on Page 1 and Page 2 and Table 1 of this report.

A summary of the findings from this fourth assessment study is detailed in Table 8.

Table 8. Summary - Leiber- 4th Assessment Study (2014 data)

	RRI		Multivariate Results
Referral to Court	Overrep.	steady/high	
Secure Detention	Overrep.	increase	Blacks with greater number of charges more likely to be detained Blacks involved in person crime more likely to be detained Blacks/domestic assault more likely to be detained while Whites/domestic assault less likely to be detained Whites/drug offense less likely to be detained
Diversion	Underrep.	steady	Blacks more likely to be warned White/drug offender more likely to be warned White/single parent home less likely to be warned White/single parent home likely to receive diversion
Petition	Overrep.	steady	Blacks petitioned more so than Whites Blacks/person offense petitioned
Adjudication	Overrep.	steady	No race effect
Confinement in secure facilities	Overrep.	increase	No race effect
Out-of-Home Placement			
Waiver/Transfer to Adult Court	Mostly Black		Lack of variation to examine

Note: Overall referrals to court and secure detention are down but significant race gaps continue to exist. Trends of the RRI involve the examination of data from 2009 through 2014.

Overall, while the Court has shown awareness and sensitivity to greater equity in the treatment of similar youth, irrespective of race, problems continue to exist:

- DMC has remained quite **high for referral**, with rates of referral for Black youth being at over four times higher than the rates of referral for White youth. This is a pattern that really has not changed and this issue needs to be addressed.
- Although structured decision-making tools are being used at **detention and the non-judicial stages**, Blacks continue to be more likely to be detained and to receive a recommendation for further court proceedings. At detention this relationship is enhanced if the Black youth is charged with a person offense or domestic assault. At petition or the non-judicial stage, Black youth charged with a person offense increases the chances of moving forward in the court proceedings. There is a need not only to validate the instruments used to structure decision-making at detention (DAT) and the non-judicial stage (YASI, Graduate Sanction Grid) but to **make improvements/adjustments to the criteria that are used to address why Blacks in general and in particular, Blacks charged with person offenses and domestic assault at detention and Blacks charged with person offenses at the non-judicial stage, are having increased odds of being disadvantaged relative to their similar situated White counterpart**. In essence, the Court needs to address the following questions: (1) are the structured decision-making tools being administered properly (e.g., overrides)? And (2) are the tools and the criteria comprising the tools designed to reduce DMC and to ensure decision-making that result in equal protection?
- The Court needs to reach out to the District Attorney to address notice to transfer and the actual waiving of Black youth to adult court. Although not studied through the use of logistic regression and similar to court referral in that the numbers are declining, there is **a continuing problem** involving the significant overrepresentation of **Blacks transferred to adult court**. Further, **notice to transfer to adult court** remains high and involves predominately Black youth.

Thus, in terms of answering the question *why* DMC exists, the findings from the logistic regression show that factors associated with the differential offending explanation (e.g., more offending behavior, more serious crime, more problems at school, etc.) AND selection bias or the discrimination explanation (e.g., race still matters after considering differences in legal and extralegal factors) AND administrative policies (e.g., police referrals involving minor offenses, detention admissions of minor offenders, responding differently to Whites and Black charged with the same offense, etc.) still account for DMC at referral, detention, and at the non-judicial stage. Court action, either in the form of additional programs, modified policies or cooperation with other agencies (principally law enforcement and the District Attorney) needs to address these multiple causes of DMC. Significant Black overrepresentation exists involving the notice to waiver and transfer to adult court. Legal and extralegal factors predict decision-making at every stage. Race was not found to be a determinant of decision making at adjudication, and confinement in secure facilities involving out-of-home placement. The Memphis/Shelby County Court is to be commended for making efforts to reduce DMC and disparity at these stages.

Decision processes can be designed which are race neutral. Indeed, in the initial DOJ report as well as subsequent analyses, race was not found to be a determinant of decision making at adjudication, and confinement in secure facilities involving out-of-home placement. The Memphis/Shelby County Court has demonstrated that it can operate in a race neutral fashion, however, that laudable accomplishment needs to be applied to a much wider range of court and juvenile justice processes in the County. A lot of work still remains to be done most notably at stages of referral, detention, non-judicial and notice of transfer to adult court to address DMC.