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).

Fourth Compliance Report – Equal Protection

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INTRODUCTION

A Memorandum of Agreement 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). Referred from this point on as juvenile court. 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. The first Monitor's report was submitted on June 12, 2013; the second Equal Protection Monitor Report was submitted on January 16, 2014, and the third was submitted on June 17, 2014. This is the Equal Protection Monitor's fourth report on movement toward compliance on the items stipulated in the Agreement as pertaining to Equal Protection. The time-frame assessed is December 12, 2012 to November 18, 2014. The evidentiary basis for his opinions are based on document reviews (policies, data, compliance report by the Settlement Agreement Coordinator, reports provided by the Disproportionate Minority Contact Coordinator or DMC Coordinator, meeting notes, emails, etc.), an on-site visit (October 6, 2014 through October 9, 2014), interviews and phone-calls with Staff, the DMC Coordinator, the Settlement Agreement Coordinator, and conference calls with Staff and the Office of Juvenile Justice & Delinquency Prevention (OJJDP).

In the determination of racial disparity in JCMSC's 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.

The Agreement indicates provisions (or things to do) and within 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).

OVERALL SUMMARY AND IMPRESSIONS UP TO THIS POINT IN THE AGREEMENT

The summary and impressions discussed reflect activities up to November 18, 2014. As stated in the first Equal Protection Compliance Report, the Juvenile Court had attempted to address DMC prior to and as a result of the Agreement being signed in December of 2012. These efforts included but not limited to: working with the Annie E. Casey Foundation in 2011 to examine juvenile detention practices; participation in the Memphis and Shelby County DMC Task Force, a Juvenile Detention Alternatives Initiative - JDAI; the School House Adjustment Program (SHAPE), a program started as a DMC pilot project in 2007 to provide intervention other than juvenile court referral for students who commit minor offenses; the Memphis Youth Violence Prevention Plan Project in the spring of 2011; the Urban Youth Initiative, a faith-based program designed to address and reduce juvenile crime and violence, and the Detention Assessment Tool (DAT) in 2004-06. Some of these efforts were specifically directed at DMC (e.g., SHAPE) while others indirectly impacted DMC (e.g., JDAI).

Positives: Since the Agreement, the Juvenile Court and the County have been cooperative with DOJ, the Monitor and the adoption of the MOA and have taken a number of steps toward attempting to comply with the Agreement:

(1) The appointment of a DMC Coordinator;
(2) The use of the Summons program;
(3) Further use and attempts at expansion of the Schoolhouse Adjustment Program Enterprise (SHAPE);
(4) The continuation of working with JDAI and the attempt to reform the detention process;
(5) The establishment of the Community Consortium and other efforts involving community outreach (i.e., a Twitter account, Facebook, webpage, speaking engagements);
(6) The development of a pilot program with the Sheriff's Department designed to reduce transports and
(7) The signing of an MoU with the Memphis Police Department participate to implement the Law Enforcement Assessment Phone-In Pilot Program or LEAP as well as a pilot program whereby a caseworker would be located at the Old Allen precinct to assist with referrals and services;
(8) Working with OJJDP and JDAI in the areas of training and technical assistance, such as attending a JDAI site Santa Cruz, CA;
(9) Gathering data and generating internal reports to highlight and monitor the extent of DMC at stages within the juvenile justice system;
(10) The formation of a committee comprised of Points of Contact - specific individuals and positions named within each department responsible for delinquency matters including but not limited to probation, detention, and the Juvenile Court Magistrates;
(11) Gathering information on available services and diversion options and differentiated by the race/ethnicity of the youth placed in these services and geographic region, including zip code;
(12) A strategic plan and formation of committee to address DMC within the Juvenile Court has been developed;

(13) Discussions on policies and procedures in particular, detention, a graduated sanctions grid for probation services, and adoption and training in the use of the Youth Assessment screening Instrument (YASI); and
(14) Discussions with law enforcement agencies including the Memphis Police Department to develop day/evening reporting centers;
(15) Community out-reach – the distributions of pamphlets, town-hall meetings, speaking engagements, a DMC Summit, contracting with Dr. Harris to conduct surveys, focus groups, etc. with families and juveniles involved with the juvenile justice system, etc., radio spots, participating with such groups as the Hickory Hill's Crime Prevention & Community Safe Expo, and attending the Frayser Fall Festival, the COPS Youth Empowerment Conference, the Certificate Program at Georgetown University, and the "Real Talk" Program in conjunction with the Memphis Police Department and serving on a committee to establish a court liaison program;
(16) Discussions to use and develop alternatives to secure detention, such as Porter-Leath, electronic monitoring, day and evening reporting center(s).and the Juvenile Intervention & Faith Based Follow-Up (JIFF).

Overall, the Juvenile Court and the County are to be commended for the activity that has occurred. 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), and 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 to implement a day/evening reporting center are all noteworthy strategies and activities to reduce DMC. Despite these positives, there is still room for improvement.

Need For Improvement:. 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 3rd assessment study to be discussed within this report, continue to show, for the most part, that DMC is due to many factors, such as differential offending, bias, and procedural factors (a parent unwilling to pick-up the child).

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

Thus, strategies and initiatives need to be implemented with this mind and the areas cited below for improvement attempt to do this. In addition, these have been previously discussed in the first three Equal Protection Compliance Reports and reiterated here again in this fourth Equal Protection Report, and detailed as well as in the Settlement Agreement Coordinator Reports.

More specific, consistent findings reveal:

- While the number of referrals has declined over time, the racial breakdown continues to be 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.
- Black youth continue to be underrepresented in diversion.
- Black youth are overrepresented in cases petitioned and resulting in confinement in secure facilities.
- Last and although overall numbers appear to have declined, significant overrepresentation of Black youth exist for receiving Notice to Transfer to adult criminal proceedings and actual waiver to adult court.

Some of these results can be explained by Black youth representing more serious cases (committing more serious crime, problems at school, etc.) AND bias in the treatment of Black youth AND simply as by-products of existing procedures (unnecessary police referral to court and detention, no one to pick up the youth, aggressive prosecutorial recommendations, etc.). To address these varied but interrelated factors, the following is once again recommended:

(1) Existing programs need to be used and/or used more effectively to take in a larger number and range of youth, such as SHAPE, Porter Leath, JIFF, Operation Safe Community and the Defending Childhood Initiative grant.

(2) Furthermore, while the Summons program and the pilot programs with the Sherriff's Department and the Memphis Police Department are initiatives that are reducing the number of youth referred to secure detention, the Juvenile Court needs to continue to develop policies and programs to reduce the racial disparity. For example, **the Court could implement a policy directing its facility staff to refuse to receive youth involved in minor activity, including minor domestic assaults. The Court could also support the development if diversion alternatives to court referral.** Essentially, the Court needs to examine ways to reduce the flow of youth, especially Blacks, into the juvenile justice system, truly keeping it as a mechanism of last resort.

(3) The Juvenile Court and the Memphis Police Department need to come together to address this issue with action, not simply discussion. There is a need to develop and implement a policy(s) to reduce the number of youth overall referred to juvenile court and in particular, Black youth. Granted, efforts have been made but discussion needs to continue that lead to results – that is, programs and policies need to be developed and used to reduce the number of Black youth referred to juvenile court and secure detention to reduce DMC. Discussions are going in the right direction involving the development of a Day/Evening Reporting Center as well as those that pertain to the Memphis Police Department and the Court to establish a pilot program whereby a caseworker would be located at the Old Allen precinct to assist with referrals and services. But, these **discussions need to lead to the actual development and use of these alternatives to reduce the number of Black youth coming into contact with the Court and further entry into the system.**

(4) While information has been gathered, **there is still a need to interpret the data; determine what it means for DMC, what can be done to reduce DMC, what barriers or challenges exist and how these can be addressed**. This applies to not only the Points of Contact (POC) but as well to those in charge of the gathering of information that lists programs and services used by the court to treat/intervene into the lives of youth and whether those most in need are being served. Further, there is a need for all parties to also take into consideration not only the data, say from the RRI's, but the results from the assessment studies. It does not appear that personnel are using this information to address DMC issues. In terms of data, it is also imperative that the Court find a replacement for Debra Monroe. Having her on contract to help is okay but a full-time person on staff and at the premise is crucial. Incidents have already occurred that have resulted in a failure to meet deadlines in providing data.

(5) As stated in the 3rd report, there is a need for involvement by all parties at all levels - the DMC Coordinator, Staff and in particular, those involved as the Points of Contact, and Administrators for DMC to be reduced and for gaining compliance with the Agreement. Again, **Administration MUST take an active role** in this process and in particular with the POC's to show that the process is meaningful and the POCs are being heard. Since the election and changes in personnel there appears to be signs of greater ownership. Still, more **leadership is needed**. A step in this direction could be the appointment and involvement of the new Director of Court Services.

(6) While technical assistance has been requested and used (visited) for various training, the Juvenile Court needs to continue to move on the following:

- The operationalization and implementation of the strategic plan,
- Implementation of objective tools to structure decision making at what is referred to non-judicial outcomes (often referred to as intake) and the graduate sanction grid.
- Although the validation of the **DAT** has been in place since January, 2014, validation needs to continue and include all instruments. The validation of the DAT (Field Test and Validation Test) is in the process of being conducted by Dr. Burt Burraston with the University of Memphis (U of M) Department of Criminology and Criminal Justice. In accordance with the timeline in the contract with the U of M, the court should have received a final report complete with recommendation by June 2014. To my knowledge, a report has not been delivered. DOJ approved the YASI as an objective decision making tool on or about April 3, 2014, at which point juvenile court began a purchase contract process. **While the YASI is a validated tool, it and the Graduated Sanctions Grid need to be validated as applied to the Court.** This will ensure that the tools are capturing accurate data, encouraging race-neutral decision-making, and improving overall fairness in court proceedings.

(7) As noted in point 2, while efforts are being made to reform detention decision making and especially by the working relationship with JDAI, **it is important to develop alternatives to both referrals in general and those to detention and in particular for youth charged with domestic disputes and minor offenses.** Data continues to show

that a significant number of Black youth are brought to juvenile court and to detention with a charge of domestic dispute, thus contributing to DMC. It is also important that detention reform reduce DMC.

(8) **Notice of Transfer and actual waivers to criminal court has remained a DMC problem**. It was noted in March of 2014 that a thorough review was going to be conducted of this stage in the proceedings. In December, a breakdown by burglary offenses involving waivers was conducted. While this is a start, all waivers should be looked at as well as those **youth receiving a notice of transfer** – differentiated by race, crime and outcome. This information should be shared not only with DOJ and the Monitors but the Points of Contact.

(9) There has been change due to the election, retirements, etc. More specific, **the Strategic Plan Committee has lost three people – these people need to be replaced**. In addition, committee members should not the same as those representing the Points of Contact. The new Judge and Director of Court Services are reviewing the current makeup of the Strategic Planning Committee and the POC board (above item 5).

(10) Because the Consortium was having difficulty and under-utilized, DOJ has become more active in terms of providing assistance and direction. Further the Consortium, the Court, and the DMC coordinator need to have a working relationship. In fact, the DMC coordinator and someone from the Court need to attend meetings and be participants. The Consortium should also be able to request and receive in a timely manner, information from the Court and with some conditions, the ability to visit the Court, hearings, and detention.

Both the DMC Coordinator and the representative working with JDAI have been very active in the community. In terms of community engagement, the Court has been less active over the last six months. **Although there has been some activity, there were missed events, poor communication with the Consortium, and the Data dashboard has been slow in becoming an active feature of the Website**. On the latter, indications is that movement is forthcoming sometime in December. Judge Michael has spoken in the community and plans to continue to this as has other court personnel. Still, **the Court needs to do a better job of engaging with and providing information to the community**.

(11) Per the Agreement, a community survey and survey of the Court should have already been conducted. A contract was in place for someone to conduct the study but there have been delays in working with OJJDP. The Equal Protection Monitor has offered to address if things are unable to be worked out with OJJDP. **By the Equal Protection Monitor's next site visit, sometime in April of 2015, the studies need to be completed or well underway.**

The need for the continuation of the positive things that have occurred as well as improvement in the areas cited above is accentuated by a review of the Relative Rate Index (RRI) and the

assessment study conducted by the Equal Protection Monitor. A summary of these findings is provided below. See Appendix 1 for the full report.

Examination of the Level and Causes of DMC

The Relative Rate Index (RRI) provides an indication of the extent of over-representation of youth of color in the juvenile justice system during a specified time-frame and at stages in the system. For the Juvenile Court, the RRI was used to measure the level of DMC at stages for Black youth as compared to White youth. While valuable, the relative rate index 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., age, school performance) 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, an extralegal factor, however, should not be predictive of a stage outcome once all legal and other extralegal factors are considered. If race does not have a statistically significant presence, then DMC is explained by differences, for example, in legal characteristics such as crime severity and prior record. If race is a statistically significant indicator, then something else in addition to legal and other extra-legal factors account for DMC, for example, possibly bias.

Relative rate indexes were examined for the years 2009 through 2013. 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 June 30, 2014 was provided by the Juvenile Court of Memphis and Shelby County (Juvenile Court). A relative rate index of 1 is neutral or 1 White per 100 youth to 1 Black per 100 youth. Anything above indicates minority overrepresentation; anything below, under- representation.

In summary, **Black youth are disproportionately represented in 5 of 7 stages** and in particular, at referral to the juvenile court, secure detention, and cases resulting in confinement in secure facilities. **Black youth continue to be underrepresented in cases diverted**. A decline in the RRI is evident in cases resulting in delinquent findings. Due to the relatively small numbers, the RRI was not calculated for transfer to adult court and although the numbers have declined **most of the youth given a notice of transfer and waived to adult court were Black.**

RRI Results:

Referrals. More specific, although somewhat down in the first half of 2014, the relative rate index involving referrals to court remains high at 3.95. Thus, almost 4 Black youth per 100 youth are referred relative to 1 White youth per 100 youth. The significant overrepresentation of Black youth in court referrals continues to be an issue that has shown relatively no change over the last 5 and half years.

Diversion. Black youth continue to be underrepresented for cases diverted. In 2009, the RRI was .90, in 2014, the RRI is .89.

Secure detention. 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 part of 2014, an increase in disparities related to secure detention is evident at 1.64 and 1.96, respectively. Although the overall number of youth involving secure detention has reduced significantly over the years for both White and Black youth, Blacks are still being detained more so relative to Whites. This is an area that the Court will need to continue to address.

Petitioned. For 2013 and through the first six months of 2014, the RRI's for cases petitioned shows overrepresentation and has been steady at 1.46 and 1.51, respectfully.

Delinquent findings. The relative rate resulting in delinquent findings continues to show a decline - for 2013, 1.16 and 1.09 for 2014 compared to 2.11 in 2012.

Secure confinement. 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. Up to this point in 2014, the relative rate shows an increase to 1.77.

Transfer. 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 while 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 for the first six months of 2014, is 30, the disparity between Whites and Blacks appears to have stayed relatively the same over the years. Furthermore, the number of youth receiving a notice of waiver is high at 256 in 2013 and 77 for the first half of 2014. For 2013, of the 256, 18 were White and 238 were Black. Of the 77 for the half of 2014, 8 were White and 69 were Black. Only 1 White was waived in 2013 compared to 89 were Black. For the first six months of 2014, 0 Whites and 30 Blacks were transferred 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, following the pattern used in the DOJ findings report and the previous assessment study conducted by the Equal Protection Monitor, multivariate analysis, in the form of logistic regression, was used to give added insight into the predictors of case outcomes or the underlying causes of DMC, in order to assist the Court and County in developing strategies to reduce racial disparities.

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 from July 1, 2013 through June 30, 2014 (N=77,749) were provided. The dataset was converted from Excel to SPSS format and all analyses were conducted using the SPSS statistical software. The final data consists of N=8,385 distinct referrals for the one year

period of July 1, 2013 through June 30, 2014. The sample parallels the Juvenile Court data by distinct complaints.

Assessment Results:

Detention. In the present study, while race does not have a statistical significant main effect with detention outcomes, there is once again the presence of an interaction effect involving race and being charged with a person offense. White youth charged with a person offense is inverse and statistically significant. 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 1.12 times relative to all other youth.

Estimations for other interactions produced evidence of two additional statistically significant relationships between race with the number of charges and domestic assault with the dependent variable.

- **Being Black and having a greater number of charges increased the odds of being detained** by 32%. No such effect exists for Whites.
- **White youth involved in domestic assaults, however, have a decreased likelihood of being detained** by 90%. For Blacks, domestic assault is not a statistically significant determinant of the decision to detain (though the effect is positive).

Most of the legal and extralegal variables predict detention as one would expect. For example, crime severity is predicts detention.

Overall, in 3 of 4 assessment studies race has been found either individually or in combination with other factors, 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 2¾ 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 assessment study, 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.

Non-judicial., In the present research, **race once again does not have a direct statistically significant effect on non-judicial decision-making**. But, additive or direct race effects exist for decisions involving a warning and diversion:

- **Blacks are more likely to receive a warning** by 38% than Whites net controls.
- **Blacks are less likely to receive diversion** than Whites by 44%. This latter result is consistent with the previously discussed findings in the form of the relative rate index.

Tests for differences by the separate race models yield evidence of one race interaction effect with being a drug offender and the decision to warn. Recall that Blacks were found more so than Whites to receive a warning at the non-judicial stage:

- Being a **White drug offender increases the odds of receiving a warning**. No such relationship exists for Blacks.

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. Thus, in 2 of 4 assessment studies race had a direct relationship on the decision but the last 2 have failed to show a direct effect. The latter findings could be the result of greater awareness and sensitivity to greater equity in the treatment of similar youth, irrespective of race. The Court is commended for making strides in this regard.

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 variable. Similarly no main or interaction relationships were evident in the second study. These results could differ 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, have attempted to correct for the bias in decision-making at this stage. The findings from the latest assessment study by Leiber, however, show that Black youth are less likely to have the opportunity to participate in diversion than similar White youth. **Thus, in terms of trends as reported by the RRI's and from the results from 2 of the 4 assessment studies, diversion is an area that is in continued need of attention to address DMC.**

It is important to note that non-judicial could be viewed as a ranked order variable; thus requiring the use of multinomial regression rather than logistic regression. In both assessment studies and the present or third assessment, for the purpose of presentation logistic regression was used. Although not reported here, analyses involving multinomial regression yielded similar results as reported with the logistic regression.

<u>Adjudication.</u> In the present assessment study, **race once again does not have a statistical direct effect on adjudication outcomes**. 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. Likewise, in the first assessment study by Leiber, race by itself was not a significant predictor once controls were considered. Comparisons of coefficients, however, 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. The results from this last study failed to show any direct or combination relationships with other independent variables and the adjudication process.

Judicial Disposition. In the present assessment study and consistent with the previous two 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. The results from the present study, or the 3rd assessment study, did not reveal evidence of such relationships.

Transfer. 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 three years. That is, **almost all youth that received a notice of transfer and are waived are Black**. More specific, **for July 1, 2013 through June 30, 2014**, 292 youth received a notice of waiver with 12 of those being White. Of those waived, 87 were Black and 3 were White.

Summary

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, etc.) still account for DMC. Legal and extralegal factors predict decision-making at every stage. Race was not found to be a determinant of decision making at petition, adjudication, and confinement in secure facilities involving out-of-home placement. The Juvenile Court is to be commended for making efforts to reduce DMC and disparity at these stages. Areas that still need continued efforts to reduce DMC and possible bias are: Referrals, detention, diversion and notice to transfer and actual waiver.

A summary of the DOJ study and the three studies by the Equal Protection Monitor is provided on the next page.

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	Overep.	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 – 1st 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- 2nd 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
Waiver/Transfer to Adult Court	Mostly Black		Lack of variation to examine

See next page

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 Out-of-Home Placement	Overrep.	increase	No race effect
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 the first six months of 2014

In short, while positive steps have been taken, these findings support the points raised above that continued improvement on the part of the Juvenile Court is needed. Furthermore and as stated previously, while it is acknowledged that efforts on the part of the Juvenile Court have been made, there is still a need for greater leadership or ownership of the DMC issues facing the juvenile court to ensure equality for all youth.

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	**PC**
1c	Identify staffing needs to collect, evaluate & report data	**PC**
1e	JCMSC shall identify and designate a point of contact within each department to reduce DMC	**PC**
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**
1g (9 months)	Assess impact policies/procedures/programs on DMC levels at each decision point and conduct inventory of services and options…	**BC**
1h (9 months)	Complete and implement strategic plan to reduce DMC	**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	**BC/CLTBD** **BC/CLTBD** **BC/CLTBD**

	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	**BC/CLTBD** **BC/CLTBD** **BC/CLTBD**
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	**BC/CLTBD**
2c	Reassess the effectiveness of its policies, procedures, practices and existing agreements annually and make necessary revisions to increase DMC reduction	**CLTBD**
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	**BC** **CLTBD** **BC** **BC** **CLTBD**
4	Training on a number of pts (i-vii) Staff involved with the delinquency docket should receive training of at least 4 hours.	**PC** **PC**
5	Develop and implement a community outreach program to inform community of progress toward reforms. This should include a county-wide	**BC**

	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	**BC**
	There is a need for summaries of reports to be posted	**BC**
	JCMSC shall publish on its website annual reports in accordance with the Agreement.	**SC**
	The Community Outreach program should include a data dashboard that communicates compliance on the part of JCMSC with the Agreement.	**BC/CLTBD**
	A community survey shall be conducted (**one year**)	**BC/CLTBD**

1. DMC Assessment

(a) Identify all data collection needs at each major Decision Point (p. 21)

STATUS-PARTIAL COMPLIANCE

DISCUSSION-collection needs have been identified for each data point But more needs to be done with the data, interpretation, action

(c) Identify staffing needs to collect, evaluate & report data (p. 22)

STATUS-PARTIAL COMPLIANCE

DISCUSSION-listing of staffing and no issues have been identified concerning data collection but work needs to be done to make data useable for management purposes of DMC

(e) JCMSC shall identify and designate a point of contact within each department to reduce DMC (p. 22).

STATUS-PARTIAL COMPLIANCE

DISCUSSION-points of contact have been identified. Although monthly meetings have taken place, problems still exist with understanding purpose and assuming an active role. Administration has indicated that it will take a needs to play a more active part in taking charge of the Points of Contact in terms of objectives and use of data and information to address DMC, including results from assessment studies and information contained in compliance reports.

(f) Collect data and information required to determine where DMC occurs (p. 22)

STATUS-PARTIAL COMPLIANCE

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, lacking is a discussion of what the data means and what can be done to address DMC. Notice of transfer and actual transfers need to be studied in greater detail.

(d) Shelby County Mayor shall appoint a coordinator responsible for oversight of the progress on reducing DMC (p. 22).

STATUS-SUBSTANTIAL COMPLIANCE

DISCUSSION-the DMC Coordinator was hired in February of 2013. Work has been done with Staff, the Points of Contact, development of reports and to some degree has been involved in community outreach. As stated in the first report, the DMC Coordinator and the Court Community Liaison need to work together more often as part of the community outreach stipulation.

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 RRIs, and available diversion options for youth appearing before JCMSC… (p. 22)

STATUS-PARTIAL COMPLIANCE FOR EQUAL PROTECTION MONITOR, PARTIAL COMPLIANCE FOR STAFF

DISCUSSION-the 3rd 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. Interpretation and action with the data is needed.

(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-BEGINNING COMPLIANCE

DISCUSSION-Listing of diversion alternatives has occurred. Assessment still needs to be conducted.

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

STATUS-PARTIAL COMPLIANCE

DISCUSSION-a strategic plan has been developed. Technical assistance was requested and provided as to how to proceed in November of 2013 and March, 2014. Implementation should continue. Committee members need to be replaced as needed and they should not be the same as those residing on the POC.

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)

(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-BEGINNING COMPLIANCE/COMPLIANCE LEVEL TO BE DETERMINED

DISCUSSION-information has been collected; adoption of objective instruments have occurred. DAT is being validated but this is taking sometime; the Sanction Grid has been implemented; and training began for the adoption of YASI and is being implemented. It is important that all 3 instruments be validated. This will ensure that

the tools are capturing accurate data, encouraging race-neutral decision-making, and improving overall fairness in court proceedings.

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

STATUS-COMPLIANCE LEVEL TO BE DETERMINED

DISCUSSION-there has been no movement to evaluate and this must be addressed to ensure the stated objectives of fairness are being reached.

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

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

STATUS-BEGINNING COMPLIANCE

DISCUSSION-already discussed

(b) Refine decision-making tools, etc.

STATUS-COMPLIANCE LEVEL TO BE DETERMINED

DISCUSSION-little movement has been done in the regard.

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

STATUS-BEGINNING COMPLIANCE

DISCUSSION-agreement in place; evaluation needs to be part of effort

(d) Use of alternatives, including a pilot diversion program to secure detention, day/evening reporting center, etc.

STATUS-COMPLIANCE LEVEL TO BE DETERMINED

DISCUSSION-discussions with Memphis Police Department to implement day/evening reporting centers has taken place. Other alternatives have been discussed. These arrangements could help reduce the number of referrals to juvenile court and detention if done correctly. Continued discussions need to translate into action – programs, alternatives, policies.

(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-these items have been discussed elsewhere

DISCUSSION-these items have discussed previously

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-PARTIAL COMPLIANCE
DISCUSSION-several training sessions have occurred, training on certain programs is still in progress. Overall, the Court is commended for their effort in this regard.

5. Community Outreach as stated in Agreement

(a) 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 who are reflective of the cultural 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)

STATUS-BEGINNING COMPLIANCE
DISCUSSION-a county-wide Consortium has been formed and appears to be representative of the community; a Chair is in place, the Consortium needs direction and technical assistance to develop a strategy and goals; DOJ is helping in this regard. The DMC Coordinator and the Court need to play an active role but not control the Consortium. Members should be removed and/or added based on willingness to be an active participant.

(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-BEGINNING COMPLIANCE
DISCUSSION-a 2nd public meeting was held in January, 2014 and a 3rd public meeting was held in June, 2014. The date for the next public meeting is planned for some time in January, 2015. Meetings need to be held every 6 months.

(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-BEGINNING COMPLIANCE
DISCUSSION-this appears to have occurred

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

STATUS-SUBTANTIAL COMPLIANCE
DISCUSSION-these activities have occurred

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

STATUS-BEGINNING COMPLIANCE/COMPLIANCE LEVEL TO BE DETERMINED

DISCUSSION-a dashboard has not yet occurred. The Court has created a website, postings exist as well as the agreement and reports. Additional data is also presented. Postings should occur at least monthly, if not sooner, following after an event, activity, etc. Likewise, announcements should be posted as soon as possible to provide sufficient notice to the public. Further, a Facebook page and other social mechanisms have been created – pamphlet, Twitter account. Presentations have also occurred within the community. A Summit was held in late June 2014. Both the DMC Coordinator and the Community Outreach Representative for the Court have been active in the community in terms of presentations and sitting on committees but not in an organized manner or planned strategy. The dashboard needs to be created and other interactive mechanisms need to be included on the webpage, including active links to completed portions of the site. Things such as more graphs with color indicators showing progress, no progress, etc. by decision points, for example, could be informative for the public. May want to look at other sites – Burns Institute, TABLEAU- for examples as to improve the webpage. The dashboard needs to be up and running before the next compliance report.

(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/COMPLIANCE LEVEL TO BE DETERMINED

DISCUSSION-a Community Outreach policy has been developed and a number of activities have taken place but much more needs to occur. A survey of the community was to have already taken place; a contract has been awarded and the study has been on hold. The study needs to be completed or well underway by the time of the next compliance report (April of 2015).