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# From Education to Incarceration: A Study of School Process Affecting Disproportionate Minority Contact within Hardin County's Juvenile Justice System

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FROM EDUCATION TO INCARCERATION: A STUDY OF SCHOOL PROCESS  
AFFECTING DISPROPORTIONATE MINORITY CONTACT WITHIN HARDIN  
COUNTY'S JUVENILE JUSTICE SYSTEM

A Thesis Proposal  
Presented to  
The Faculty of the Department of Sociology  
Western Kentucky University  
Bowling Green, Kentucky

In Partial Fulfillment  
Of the Requirement for the Degree  
Master of Arts

By  
Krystal Carver  
May 2019

FROM EDUCATION TO INCARCERATION: A STUDY OF SCHOOL PROCESS  
AFFECTING DISPROPORTIONATE MINORITY CONTACT WITHIN HARDIN  
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For my boys:

My love, Jason Scott

My oldest, Jaxen Elijah

My youngest, Cooper Scott

## ACKNOWLEDGMENTS

I would first like to thank Holli Drummond, my thesis chair, for her never-ending support and encouragement. A huge thank you to Donielle Heron-Lovell, for paving the way for this project and for always fighting for equality. A special thank you to Lauren McClain for agreeing to be on my committee and for always being there with a listening ear.

I would also like to thank Nicole Breazeale. Nicole, you have inspired me to be a better human, to fight for the causes I believe in, and to love as hard as I can for as long as I can. Without your support and encouragement none of this would be possible; thank you for convincing me to go to graduate school!

I would also like to thank my parents, Linda Johns and Gary Carver. Without you all and the love and support you have provided, my dreams could have never been reached. I will never be able to repay you for all you have done. I love you.

To my husband, Jason Dickens. This journey I owe to you. You have sacrificed relentlessly, you have supported me, you have loved me through the crazy, and you have been the anchor that kept me grounded. Because of all this I am the woman, mom, and wife I always wanted to be. Your love means more to me than you could possibly imagine and I will be forever thankful that God chose you for me. I love you, from now until forever.

To my sons, Jaxen and Cooper. I know the journey has been hard on you. Thank you for understanding why mom couldn't always be there. Because I have chased my dreams, you have no reason not to chase yours. The sky is only the limit if you choose for it to be! I love you, to the moon and stars and back a million times.

Finally, to the children that my research project is based on. I hope you have found peace. I pray that you have found the support and guidance you needed to remove yourself from the system and turn your life around. I will always fight for you, and the ones who follow, so that maybe one day this world will give children a fighting chance, no matter what their circumstances are.

## PREFACE

I did not include my nephew, Christopher, and my niece, Alisabeth, in my acknowledgments because they deserve more than a simple thank you. This research project was built upon their experiences and was the driving force behind my passion to help children. On October 28, 2013, they were physically abused at the hands of their mother and her boyfriend. Christopher suffered from multiple cigarette burns on his face, in his mouth, on his earlobes, and other areas of his body. He had bruising on his neck from being “held down until [he] went to sleep” (these were his words), a fractured jaw bone, a fractured spine, and a multitude of other bruises all over his body. He was four years old. Alisabeth suffered from multiple cigarette burns in her mouth, the corner of her eye, and other areas of her body. The investigative team at Kosair’s Children’s Hospital was able to confirm that Alisabeth was “shot” by a “stun gun” by the two prong marks it left on her back, directly behind where her heart is located. She also suffered from a fractured occipital bone, a concussion to the frontal bone, and a multitude of bruises on other areas of her body. She was 23 months old. After spending a week in Kosair’s Children Hospital with them, I vowed that I would do what I could to prevent child abuse. I would be their voice and the voice of other children who have had the same experiences.

While my thesis is not focused on child abuse, we must realize that child abuse, neglect and dependency is a huge part of many of the cases I studied and will become a more frequent occurrence in cases that follow. I say this with hope that the juvenile court system will be restored to the beliefs and practices on which it was built; helping children in extenuating circumstances, determining punishment on a case-by-case basis, and

seeking out the resources and demanding help for those who need it the most. I cannot do this alone; it will take a host of individuals to create such change, but we must continue this fight for the sake of all children.

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PROCESS AFFECTING DISPROPORTIONATE MINORITY CONTACT WITHIN  
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This study seeks to understand how school processes affect disproportionate minority contact within the Hardin County Juvenile Justice System. A study completed by Lovell and Drummond (2016) in conjunction with the Hardin County BRIDGES Council, is used as the foundation for the current research. The original research, along with several others, examined disproportionate minority contact (DMC) after the student had been referred from their respective schools to the juvenile court system. The current study investigates 858 juvenile court records, with permission of the Hardin County Juvenile Judges, and examines school information included in the court records related to the student in correlation to race. School data was collected from the court cases to identify points of DMC that begin within the school system, which ultimately led to their referral to the juvenile court system.

## **Introduction**

Zero-tolerance is a term that has come to describe the nation's current discipline strategy in public schools (Aull, IV, 2003 pg. 182). These policies were implemented across the United States in 1994 with the creation of the Gun Free School Act (Gorman & Pauken, 2003; Martinez, 2009; Mongan & Walker, 2012). While the zero-tolerance policies were created to control violence in schools caused by weapons, they have now become more subjective in nature and are used to discipline acts such as being disrespectful to school officials and body language (Bracy, 2011; Browne-Dianis, 2011, pg. 25). The implementation of zero-tolerance policies has sent many children on a path called the school-to-prison pipeline (STPP). The school-to-prison pipeline refers to a pathway of tracking "at-risk" children from school to prison for school-related infractions, and ultimate transfer out of the school system for punishment. Annamma, Morrison, & Jackson (2014) argue that "it is disproportional treatment and practices across a number of interconnected educational systems that result in the disproportionate outcomes in the STPP" (pg. 54). The STPP facilitates the disproportionate number of children from minority races who enter the justice system each year and this research seeks to provide additional knowledge and understanding of the educational system's contributions to the STPP.

Disproportionate Minority Contact (DMC) refers to the disproportionate number of minority youth who encounter the juvenile justice system (Hanes, 2012, pg. 1), a process facilitated by the STPP. The Juvenile Justice and Delinquency Prevention Act of 1974 was amended in 1988 to require states participating in the formula grant program to address disproportionate minority confinement (DMC) in their state juvenile justice and

delinquency prevention plans, specifically to “reduce the proportion of minority youth detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups if they exceeded the percentage of minority youth in the general population” (Hanes, 2012, pg. 1). The 1992 amendments elevated the efforts to address DMC to a “core requirement,” tying 25 percent of grant funds to states’ compliance (Hanes, 2012, pg. 1). In 2002 Congress reauthorized the act and elevated the requirement from “confinement” to “contact” (Hanes, 2012, pg. 1) to acknowledge DMC at the nine points of contact: arrest, referral to court, diversion, case petitioned, secure detention, delinquency finding, probation, confinement in a secure correctional facility, and case transferred, certified, or waived to adult criminal court (Hanes, 2012, pg. 2). Many studies regarding DMC begin once the youth has been sent to the juvenile justice system, with acknowledgment of suspension or expulsion from school as the primary cause of the referral (Annamma, Morrison, & Jackson, 2014; Bishop, Leiber, & Johnson, 2010; Bridge et al., 2013; Davis & Sorenson, 2013; Dillard, 2013; Leiber, 2002; Leiber, Brubaker, & Fox, 2009; Leiber & Fox, 2005; Leiber & Johnson, 2008; Mallet & Stoddard-Dare, 2010; McCarter, 2009; Piquero, 2008; Polasek, 2012).

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) offers eight explanations for DMC. These include 1) Differential Behavior, 2) Mobility Effects: Importation/Displacement, 3) Differential Opportunities for Prevention and Treatment, 4) Justice by Geography, and 5) Accumulated Disadvantage. This research will consider the last three explanations offered by OJJDP for DMC, which can best demonstrate the school processes that exacerbate the DMC issue. These are 1) Legislation, Policies, and

Legal Factors with Disproportionate Impact, 2) Differential Processing or Inappropriate Decisionmaking, and 3) Indirect Effects.

The current research seeks to understand how educational processes affect DMC and lead to the over representation of minority youth present in the justice system. To do so the researcher made 19 trips to the Hardin County Court House, read through 858 juvenile court files from the original study, and collected data pertaining to the students' school performance and socioeconomic status. The researcher then analyzed the data to find correlations among the variables collected and race to demonstrate how DMC begins through school processes.

### **Legislation, Policies and Legal Factors with Disproportionate Impact**

The first explanation for DMC that is offered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is the adoption of “Legislation, Policies, and Legal Factors with Disproportionate Impact” (pg. 2-8). Sometimes policies contain elements that can cause disproportionate disadvantages for minority youth. OJJDP (2009) explains that these disadvantages can occur for many reasons but are commonly caused by policies that target specific delinquent behaviors (i.e., zero tolerance policies), specific locations (i.e., housing authority complexes), or use prior delinquent behaviors as a component of the policy (pg. 2-9).

### **School-to-Prison Pipeline**

While school systems view the zero-tolerance policies as viable ways to address school violence, professionals across many disciplines have begun to study the effectiveness of them. Studies thus far have shown that the zero-tolerance policies have

not been an effective way to deter school violence but have increased the likelihood of students becoming formally involved with the justice system (Skiba, 2014; Teske, 2011) via what has become known as the school-to-prison pipeline (STPP). Houchins, Shippen, & Murphy's (2012) essay offers suggestions to address professional development issues among those who are working to dismantle the STPP. They argue "the destructive momentum of the STPP" has been influenced by numerous factors, including, but not limited to, "imprudent legislative actions, exclusionary school policies including zero tolerance practices, racial and ethnic biases, the criminalization of students with disabilities, debasing high stakes testing, inadequate quality community prevention and diversion programs, poverty, and punitive instead of rehabilitative juvenile correctional facilities," (pg. 271). These studies, combined with studies that acknowledge that formal involvement with the system makes future system involvement more likely, effectively summarize concerns related to STPP. These concerns are more so relevant to minority and learning-disabled students in contrast to their white or abled counterparts as such students are disproportionately affected.

The school-to-prison pipeline is a term that has come to mean a pathway of "at-risk" children from school to prison through punishments they receive in school, and ultimate transfer out of the school system for punishment. Cramer and colleagues (2014) completed a study on the increase of arrest rates during the time that students were expelled or suspended from school. They found that youth are more likely to be arrested when they are expelled or suspended from school no matter the underlying offense. Studies have also shown that students who are suspended or expelled are more likely to drop out of school (Brownstein, 2010). Scholars acknowledge this process manifests in

“feelings of powerlessness [which] may lead them to become entirely apathetic toward school, lose incentive to adhere to school norms, and possibly end up dropping out of school altogether” (Bracy, 2010, pg. 389; Noguera, 2003). Multiple studies have also found that minority and special education students are disproportionately more likely to enter the STPP than others (Cramer, Gonzalez, & Pelligrini-Lafont, 2014; Fowler, 2011; Skiba, 2014).

### **Zero-Tolerance Policy**

The zero-tolerance policies began in 1994 with the creation of the Gun Free School Act to deter school violence (Gorman & Pauken, 2003; Martinez, 2009; Mongan & Walker, 2012). Under the Gun Free School Act, any school that does not expel a student for a minimum of one year for bringing a firearm on school grounds is subject to losing their federal funding, and by 1995 all 50 states had implemented it (Bracy, 2011; Gorman & Pauken, 2003). Annamma, Morrison, and Jackson’s state level case study in Colorado (2014) examined state education policies and laws in order to explain the disproportionality among school discipline procedures and suggested that these policies can be linked to the *Brown v. Board of Education* Supreme Court case of 1954; it was after the desegregation of schools that new discipline procedures came into existence (although not yet dubbed “zero-tolerance”) as an attempt to return to segregated schools. They further argue that the disproportionality experienced by minorities is part of the “New Jim Crow” era arguing that, in the past, children of color were removed from their parents to maintain a slave work ethic while now they are being removed from classrooms to maintain control of them [children] (Annamma, Morrison, and Jackson, 2014, pg. 77). Other researchers argue that implementation of such policies is associated

with the 1980s infamous “war on drugs,” in that the tactics used targeted minority individuals (Browne-Dianis, 2011; Gorman & Pauken, 2003; Lewis et al., 2010). It is also necessary to mention that mania regarding school shootings has exacerbated the implementation of zero tolerance policies causing many schools to become much harsher in their discipline practices.

While subsequent federal provisions allow local boards of education more discretionary power under the act, it appears that such discretionary power has allowed school boards to use the zero-tolerance policy as reason to punish nonviolent offenses (Gorman & Pauken, 2003). This includes “pushing out” students who do not perform well on standardized testing, often due to learning disabilities; using school resource officers to more aggressively achieve conduct goals as influenced by a law enforcement approach; and implementing a “one size fits all” model of punishment comparable to that of the prison system.

**Pushed Out.** Linda Darling-Hammond’s article (2007) takes an intense look at the ‘No Child Left Behind Act’ and a host of educational literature to examine school inequalities and makes suggestions on how this act would need to be amended to live up to its name. She argues that the ‘No Child Left Behind’ Act has enabled schools to “push out” students who do not perform well on standardized tests (Schiff & Bazemore, 2012). Schools attempt to reach their test score targets by suspending or expelling students during testing times for minor discipline problems, transferring them to an alternative school where they won’t be tested, or holding them back a grade (Darling-Hammond, 2007). Schools have also been known to advance a student’s actual grade to avoid having the student take the test during a year that is most vital for the school to receive

government grant money (Darling-Hammond, 2007). Darling-Hammond further argues that “in these states, two-way accountability does not exist: The child is accountable to the state for test performance, but the state is not held accountable to the child for providing adequate educational resources” (Darling-Hammond, 2007, pg. 255). Some researchers argue that the “achievement gap,” which is often discussed alongside standardized testing and “parallels race and class distinction” (Darling-Hammond, 2007, pg. 245), makes a reputable contribution to the STPP. However, the achievement gap only focuses on the failures of students (i.e., what could the students have done better to improve their test scores?), not what education policies can improve upon (Annamma, Morrison, & Jackson, 2014; Tuzzulo & Hewitt, 2007). The school processes examined in this study which fit into this explanation of DMC are those used to determine if a student should be evaluated for an IEP (Individualized Education Plan), and includes that evaluation process, as well as the policies and procedures surrounding retaining a student.

**A “One Size Fits All” Punishment.** Some researchers argue that zero-tolerance policies incorporate a “one size fits all” model of punishment that is comparable to the mandated sentencing found within the correctional system (Cramer, Gonzalez & Pellegrini-Lafont, 2014; Essex, 2000; Schiff & Bazemore, 2012), which arguably affects a disproportionate number of minorities. Mandated sentences for criminal activity were created to reduce discretion influenced by race, class, or gender, within the justice system (Everett & Wojtkiewicz, 2002). However, cultural and life style characteristics of minority groups became criminalized through the sentencing reform leading minorities to face excessive punishment (Everett & Wojtkiewicz, 2002). In his Opinion & Commentary contribution to *American Secondary Education (2000)*, Nathan Essex

argues that students have Constitutional rights that do not dissolve when walking through the school doors and schools should consider this when using zero-tolerance policies to punish them (pg. 38-39).

Furthermore, Stinchcomb and colleagues (2006) compare the school system with the correctional system in the process of discipline in their argument, "...the nature of zero tolerance policies in public schools appear to be generally equivalent to the determinate sentencing practices... Both impose mandated punishments based on policy guidelines governing the offense, with minimal (if any) consideration given to either the offenders' characteristics or the circumstances involved..." (pg. 129). Porter (2015) further encourages "school administrators to create an environment that looks less like a prison" by "removing the strong police presence," that will promote teaching, instead of punishing (pg. 81).

### **Differential Processing or Inappropriate Decisionmaking**

The second possible explanation for DMC offered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is "Differential Processing or Inappropriate Decisionmaking Criteria" (pg. 2-7). They explain this mechanism of DMC as an issue when "determining program eligibility, implementing diversion programs, and selecting alternative decision outcomes," which is specifically related to the youth's sentencing (pg. 2-7). Further explanation of this mechanism offered by OJJDP questions whether all youth are interrogated about gang participation, or only youth from certain areas (especially if they reside in an area with a large population of known gang members and activity). Another example offered is the definition of "family"; many minority youths

live with people who are not their parent(s) (i.e., aunts and uncles, grandparents, older siblings) or in a single parent home, which is also a stigmatized family structure, but one criterion to be released from detention is that a youth must be retrieved by a family member (meaning only a parent) (pg. 2-7).

### **School Structure**

There is a wealth of literature focusing on the roles that teachers and administrators play in the STPP, including the school climate that they help to create within each respective school (Gregory, Skiba, & Noguera, 2010; Raible & Irizarry, 2010, Roque & Paternoster, 2011; Skiba & Sprague, 2008). A large portion of the literature recommends that teachers and other school personnel have cultural diversity/competency training so that they can better understand language, gestures, and the thinking processes of other cultures to reduce the alienation felt by minorities (Darensbourg, Perez, & Blake, 2010; Fenning & Rose, 2007; Raible & Irizarry, 2010). Raible & Irizarry (2010) urge teachers to “forge bonds of solidarity with poor students of color” to offset “widespread school failure which often results in incarceration,” (pg. 1202). Implicit bias is the stereotypes and attitudes that affect our understanding, actions, reactions, and decisions unconsciously and should decrease as an aggravating factor of DMC by providing an opportunity for teachers and other school officials to more thoroughly understand the differences in cultural norms through specific cultural competency training.

OJJDP (2009) recognizes that there are several forms of differential behavior that contributes to DMC, including involvement with other social service and justice-related systems (pg. 2-3). They note, “that many other social services systems are also

establishing initiatives or standards related to cultural competency and issues similar to DMC, thus providing the opportunity for cross-system collaboration in addressing issues of racial or cultural disparities,” (pg. 2-3). This statement acknowledges that lack of cultural competency is an issue that encourages the process of DMC and is being recognized as such across multiple systems that collaborate with the juvenile justice systems. Furthermore, this statement recognizes that steps are being taken to expand cultural competency among entities providing social services to youth which should also include educational institutions.

Fujimoto and colleagues (2013) examined a study completed by the New York Civil Liberties Union (2009) of 100 schools in New York City that had students with similar demographics for their own research. In this study, Fujimoto and colleagues (2013) discovered that schools who had scored higher on the twelve indicators for success had implemented alternatives to zero-tolerance policy procedures. These alternatives included peer-mediated student conflicts (in relation to restorative justice), students were involved in establishing and enforcing school rules, and individualized attention to issues that students faced (pg. 86). Fujimoto and colleagues (2013) study sought to understand if the development of a college-going culture within schools can interrupt the STPP (pg. 86). Upon conclusion of their qualitative study of school officials, they recommend that “a shift in thinking and understanding of the cultural dynamics between communities and schools and how particular groups fail” is required for understanding the complexity of the STPP (pg. 93).

## **School Resource Officers**

Another aspect of school culture that has developed since the mid-90s reforms referenced above are school resource officers (SRO). SRO's and zero-tolerance policies were introduced into schools across the nation at approximately the same time as they are both parts of the structure that focuses on deterrence. While School Resource Officers are used in this research as part of "Differential Processing or Inappropriate Decision Making" due to their influence on the punishment that students receive, it is important to acknowledge that they are also a part of "Legislation, Policies, and Legal Factors with Disproportionate Impact" because they were brought into schools as a result of the implementation of zero-tolerance policies. Such officers are often trained in law enforcement, wear uniform types of dress while on school property, and collect their salary from the local sheriff's office (Owens, 2016). In an essay by Tracie Porter (2015), she discovered that the Los Angeles Unified School District had spent "nearly \$50 million for campus police officers and more than \$32 million for civilian campus aides hired to patrol halls," and argued that such large amounts of money should be spent on more counselors, special education programs, and after-school and in-school food programs (pg. 80-81).

Deborah Archer (2009) wrote the introduction of the New York Law School Review regarding the symposium held by the Racial Justice Project of the New York Law School Justice Action Center and the American Civil Liberties Union's Racial Justice Program in April of 2009 that challenged the school-to-prison pipeline. She argues that policing in schools and the zero-tolerance policies "have been shown to be ineffective as corrective measures and serve to demoralize our children" (pg. 869). The

studies demonstrate how the implementation of officers in schools is not effective in deterring violence and, often, only aids in the creation of a breeding ground for DMC. Porter (2015) explains that, “some high schools” have an “increase in disciplinary infractions” by “resource officers who are ideally placed in schools to serve as role models, and often shape the school social climate and students’ legal socialization,” (pg. 80).

The last consideration for the “Differential Processing or Inappropriate Decisionmaking” mechanism for DMC is that for a youth to participate in diversion, they must admit guilt. While this policy seems neutral as to race, minority children who have had experiences with law enforcement and juvenile court, or have grown up in a neighborhood where there is a general lack of positive interactions with the justice system, may be more reluctant to admit guilt because they have lost trust in the system (OJJDP, 2009, pg. 2-7). This applies to the current research where, in most schools, SRO’s are employed by the local police department, wear their full uniform into the school (including their fire arm), and can arrest students inside the school. While the discussion thus far may seem to encourage the idea that all SRO’s in schools are simply a bad idea, they can be used in successful alternative solutions that aid in the dismantling of the STPP which is discussed in detail later.

Negative school cultures do not address underlying issues that can explain a student’s behavior and can only exacerbate the problem. School structure and policies that are more punitive in nature often make problematic behavior more likely. These two issues are typically targeted at particular populations, such as minority students. Elements of the school process that are examined in the current study that fit into the “differential

processing or inappropriate decision making” include the decision to use detention or suspension as a means of discipline, grades that are altered by teachers which result in a student passing or failing, or a SRO arresting a student inside of the school building.

### **Indirect Effects**

Although eight explanations for DMC are provided by OJJDP (2009), the final consideration used for current research is whether DMC is a result of “indirect effects.” They define “indirect effects” as a “broad term that reflects the fact that in this society, economic status, education, location, and a host of risk factors associated with delinquent behavior are linked with race and ethnicity,” (pg. 2-4).

According to research, many children are at a disadvantage before the age of three because of what is known as the word gap (Burchinal et al., 2011; Fernald, Marchman, & Weisleder, 2013; Halle et al., 2009; Hart & Risely, 2003). The word gap is explained by Hart and Risely (2003) as the difference in vocabularies of children across socioeconomic statuses. Research has shown that children’s vocabularies grow to mimic that of their parents (Hart & Risely, 2003, pg. 2-3). Hart and Risely (2003) discovered that children’s vocabularies that were from families on welfare were much smaller in size and grew at a significantly slower pace than those children’s vocabularies that came from professional (upper class) families. Halle and colleagues (2009) discovered that disparities in child outcomes are evident at nine months of age and increases by 24 months, with disparities existing across cognitive, social, behavioral, and health outcomes (pg. 18). This group of researchers found that low income and maternal education were the two most consistent and prominent risk factors for disparities among children (pg. 18).

Burchinal and colleagues (2011) explored achievement disparities in relation to family, neighborhood, and school characteristics through early childhood and elementary school years considering both structure and process. Their analysis demonstrated that the gap between Black and White low-income school age children's achievement is largely accounted for by the combination of factors from these three settings over time (Burchinal et al., 2011, pg. 1416). The impact of social location and/or socioeconomic status on learning and school success is illustrative of "indirect effects" as evidenced in the research. Racial minorities are more likely than their white peers to suffer educational deficiencies due to class status at the start of their educational career, exacerbating the likelihood that they will be 1) diagnosed as learning disabled (IEP), 2) vulnerable for educational alienation and detachment (reflecting back to school structure) and finally, 3) because of the first two, more likely to be perceived as behaviorally disruptive in the class room. In a school setting, factors that might indicate "indirect effects" would include such things as participation in free/reduced lunch programs or the location of a student's living arrangements (i.e., government housing, apartment complexes).

### **Theory**

The discussion thus far has relied on three explanations for DMC, compiled by OJJDP, which emphasize the roles played by socioeconomic status, policy, and culture. The critical theoretical approach aligns these explanations generally, while critical race theory develops that explanation more finely. Critical theory emerged from the Institute of Social Research in Frankfurt, Germany in 1923 (Ritzer, 2006, pg. 106). The goal of these theories is to "more accurately reveal the nature of society," while it critiques and

works to change society (Ritzer & Stepnisky, 2013, pg. 283). Recognized as one of the first scholars to examine race as it relates to societal inequalities was W.E.B. Du Bois, and he argued that race was a socially constructed idea that only activated inequalities within society. Du Bois wrote about issues of social conflict related to social structure, particularly those “issues related to the social positions of black people, crime, and social control in the United States in light of the legacy of slavery and other injustices” (Bates & Swan, 2017, pg. 164). Aldon Morris (2015) argues that for Du Bois “economic exploitation, the lack of political power, and the absence of education determined racial inequality” (pg. 39).

### **Critical Race Theory**

Critical Race Theory (CRT) developed in the late 1970’s as the Civil Rights Movement was slowing, and many advancements made were going backwards (Delgado & Stefancic, 2007, pg. 134). Bennett Capers (2014) states that many people question what Critical Race Theory (CRT) is and offers this explanation, “one group of CRT scholars” said that “both the procedure and the substances of American law, including American antidiscrimination law, are structured to maintain white privilege,” and further argues that CRT is “committed to challenging hierarchy and subordination in all of its various forms” (pg. 2). Capers (2014) further states that many CRT scholars are supporting their claims through research on implicit biases, which, as previously argued, is an accompaniment of cultural competency (pg. 3).

Delgado and Stefancic (2007) argue that most critical race theorists believe “that racism is ordinary... and thus represents the common, everyday experience of most people of color in this country” (pg. 136) and suggest this is the first tenet of the theory.

Material determinism or interest convergence is the second tenet of CRT. This means that through racism White elites and working-class people will remain the dominant race, and their policies, laws, and societal institutions will continue to dominate society as a whole (pg. 136). The third tenet claimed by Delgado & Stefancic (2007) is the social construction of race, which was an idea introduced by Du Bois in the late 19<sup>th</sup> and early 20<sup>th</sup> century. They further argue that differential racialization builds from these tenets and is the way in which the dominant race racializes minority groups depending on the shifting needs of society, with the system of laws succeeding. Examples provided include the ways that Americans removed Japanese individuals to wartime relocation camps during World War II but today Asians are considered the “model minority” because of their low crime rates and success in school, such as their knowledge in math and science (pg. 137).

Researchers further suggest that CRT literature regarding criminal justice should include “more work on broad structural considerations” to investigate why certain behaviors are “more threatening and some acts are considered criminal or noncriminal” depending on the person’s race committing the crime (pg. 140). Delgado & Stefancic (2007) also suggest that differential racialization has turned from what society wanted to gain from each respective race (i.e., Mexicans for farm labor, Asians for railroad building and technology, American Indians for land) to what they do not want from them; suggesting that defense attorneys may interact, or “construct,” their client differently, attorneys may not accept plea bargains from them or even what kind of plea bargain the individual is offered, and how they are supervised while on probation or parole (pg. 141).

Delgado & Stefancic (2007) offer this closing statement summarizing CRT and its main purpose:

CRT merely provides a new and different lens and way of systematizing the search for knowledge. It helps avoid the search for easy answers, focuses attention on social construction and mindset, asks us to attend to the material factors underlying race and racism, and challenges us to go beyond the ordinariness of racist action and treatment (pg. 145).

### **Color-Blind Racism**

For the current research to have a sound theoretical foundation, it is important to discuss the color-blind racism ideas of Eduardo Bonilla-Silva. He describes color-blind racism as the “new racism,” replacing that of the Jim Crow era, and whose practices are “subtle, institutional, and apparently nonracial” that provides a shield for whites to express antagonism toward minorities (pg. 3). In his book, *racism without racists* (2018), Bonilla-Silva argues that “the views whites hold on racial matters amount to a racial ideology-- a loosely organized set of ideas, phrases, and stories that help whites justify contemporary white supremacy” (pg. 240). Furthermore, he argues that these ideologies are anchored within our social systems that afford the opportunity for reproducing domination (pg. 240). Bonilla-Silva (2018) demonstrates through qualitative methods that color-blind racism is found among the old and young whites alike.

Eduardo Bonilla-Silva (2018) explains that there are four frames that create color-blind racism: 1) abstract liberalism, 2) naturalization, 3) cultural racism, and 4) minimization of racism. Bonilla-Silva (2018) describes abstract liberalism as using ideas that are associated with political and economic liberalism in an abstract way to explain racial matters (i.e., each person is an “individual” and has a “choice” to send their child to segregated schools). Naturalization is described as providing whites the opportunity to

explain away racial phenomena as natural occurrences (i.e., “whites claiming segregation is natural because people tend to gravitate towards [sic] likeness” pg. 56). Cultural racism relies on specific cultural arguments to explain the social standing of minorities (i.e., “blacks have too many babies” pg. 56). Minimization of racism is described as suggesting that discrimination is not a main factor that affects the opportunities and life chances of minorities (i.e., “it’s better now that it was in the past” pg. 57). Bonilla-Silva acknowledges that these four frames were mostly used in combinations and verbalized in a variety of emotional tones that ranged from sympathy to disgust (pg. 58).

The concept of color-blind racism can be found throughout the struggles faced by youths within the juvenile justice system. Bonilla-Silva (2018) argues, along with other critical race theorists, that America’s policies are built upon racist ideas that allow whites to succeed, while minorities are left disadvantaged within all societal institutions. While it is important to have a theoretical understanding of the current research and the questions posed, there must also be viable data to support the argument at hand. The ability to collect “good data” can provide avenues of social change that coincides with the general ideas of critical race theory. The examination of school processes that affect DMC within the current research challenges the hierarchy of educational systems in Hardin County and promotes focused attention on social construction and mindset, while examining the underlying factors that contribute to color-blind racism.

### **Methodology**

This research is an extension of a mixed-method project completed for the Hardin County, Kentucky BRIDGES Council (Lovell & Drummond, 2016). Specifically, the

initial research sought to better understand at which points of contact DMC is occurring in Hardin County's juvenile justice system as well as factors associated with DMC. Beginning in summer of 2015, quantitative data collection began on all Hardin County youth charges filed in 2013 and 2014. The quantitative assessment first used the Court Management System (CMS) managed by the Administrative Office of the Court's (AOC) Court Designated Workers (CDW) to collect information for all charges, 1,410, filed in Hardin County against youth during 2013 or 2014. This information included race, gender, age, family status, and re-offender status, and each variable was used in the current study. Additional information was collected in the field directly from juvenile court records for complaints that resulted in a formal court appearance. The variables that were collected in the second source included information related to charges, such as charge amended, charge dismissed or informally adjusted, adjudicated delinquent, and charge disposition. This data from 246 youth, located in 593 separate trailers, were collected using a master list of all juvenile trailers referred to court during 2013 & 2014. The term "trailer" is used to describe the way that court records are organized surrounding each complaint filed against a youth. A "trailer" tracks all the decision that proceed the filed complaint, including the decisions related to the resolution of the charges. It is important to note that each "trailer" can have multiple charges for a child, but these charges all originate from one complainant. These 246 youths were associated with 907 charges. In addition to this quantitative data, 47 interviews were completed with stakeholders representing multiple concerned/involved community groups. Such qualitative interviews sought to understand community perceptions of DMC specifically and juvenile delinquency in general as well as identify existing strengths and weaknesses

in Hardin County's capacity to address DMC (Lovell & Drummond, 2016). This data collection provided an opportunity for the researchers to collaborate with the BRIDGES council (a group local to Hardin County) as well as the SEJAY (Subcommittee for Equality and Justice for All Youth—a subcommittee of the Juvenile Justice Advisory Board) to provide detailed analysis of the Hardin County process as it relates to issues of DMC.

The current study builds upon the previous by gathering additional data from the juvenile court records for individuals referred to court in 2013 or 2014 (858 of the 1,410 who were involved in the initial study). The additional data include variables specific to school performance, such as grade average, retention, number of absences and tardies, and number of detentions and suspensions. Juvenile court records are, understandably, not the ideal source to confirm the school process as it relates to DMC since data for almost half of the initial cases were automatically excluded due to cases that were diverted thus not having a juvenile court file. The most desirable location to find such data to afford a better test of the argument at hand would be through the school systems records. However, due to the confidentiality of such records, the researcher was unable to gain access to these records directly from the schools. Specifically, this project seeks to investigate the school process, as known via notes in the juvenile court record, that preceded formal referral into the court system. This creates further difficulty as the juvenile court records only contain information relating to the school process if it is found to be important enough to document. The current research will examine the following elements of the school process: (1) evaluation of socioeconomic status (through self reports requesting legal representation), (2) the student's average grade/academic

performance at time of referral, 3) school discipline efforts prior to referral, 4) Individualized Education Plan (IEP) and 5) details regarding each behavior incident resulting in referral (location and type).

This exploratory research seeks to assist the Hardin County Juvenile Justice System better understand the underlying factors associated with court-referred delinquency by exploring the school process (and underlying school-related challenges) which preceded referral. In doing so, the DMC problem in Hardin County can be more comprehensively addressed. The new information will be added to the quantitative data collected in the initial study (i.e., evaluating original charge, race, gender, age, re-offense status, etc.). In so doing, this study will enhance the strength of the previous evaluations by incorporating an understanding of the school process (both risky and protective characteristics) thereby providing a more comprehensive view of student behavioral evolution within the school environment and associated school response. The objective of this more specific study is to identify a baseline process on which to build future inquiries. The current study contributes to the current literature as it encourages researchers to begin their studies on DMC at the school level, instead of beginning with their referral to the juvenile justice system.

### **Data Collection**

Beginning in January of 2018 the author made 18 trips to Hardin County, Kentucky to the Hardin County Court House. The researcher spent approximately an hour driving to and from the court house. With permission from two family court and two district court judges, the author was allowed to review juvenile records for individuals who had received a charge in the 2013-2014 school year. Each day the researcher went to

the court house, a minimum of six hours was spent reading through case files. Upon arrival each day the researcher would locate a member of the clerk's office to unlock the secured file room, searching through filing cabinets to pull each juvenile record, and then reading through each one to identify the specific data used for this study. During the first few days of data collection it took the researcher approximately 30 minutes to sort through one case file. After reading through several records, the researcher became familiar with where the desired information would be located and the process became faster. Hardin County Court House employees were only needed to unlock the secured filing room and when cases could not be located due to being misfiled or in the clerk's office for upcoming court hearings. The total number of individual cases reviewed was 392, with only 14 records missing from the original data set. The researcher made multiple attempts to locate the 14 missing files and spoke with two different employees regarding where these files could be located. The researcher realizes this is not the most productive way to collect data but it was the only opportunity the researcher was given to retrieve the information needed to answer the questions posed in this study.

## **Measures**

### **Dependent Variables**

A set of dummies measures the affiant (the party responsible for filing the complaint on the youth), indicating that the youth was referred by *Law Enforcement Officer* (reference), *School Officials*, *Parent(s)/Guardian(s)*, or the *Victim* of the offense.

### **Independent Variables**

A set of dummies is used to measure race, indicating that the respondent is *African American* (reference), *White*, *Hispanic*, or *Other*. *Annual household income* is measured for each respondent in whole dollars (if this data is available). *Family stability* is operationalized based on prior cases of dependency, neglect, and/or abuse. It is coded as yes (1) for any previously reported cases and no (0) for no previously reported cases of either dependency, neglect, or abuse. (Refer to Table 1 for a complete analysis of Demographic Descriptive Statistics, pg. 34).

A variety of data related to the student's school experience were collected. The author acknowledges that because court records can be inconsistent, these variables changed throughout the data collection process. Having said that, the researcher was able to include the following:

*Retained*, meaning that the student held was ever previously held back a grade in school, is measured as yes (1) and no (0). A set of dummies is used to measure the *student's average grades*, indicating that the student received mostly A's (reference), mostly B's, mostly C's, mostly D's, or mostly F's. *Socioeconomic status* is measured by self reports requesting free legal aid and will be measured in whole dollars. *Individualized Education Plan* is coded as yes (1) and no (0). *Detention* is coded as yes (1) and no (0). *Suspension* is coded as yes (1) and no (0). *Attendance* data, including tardy and absences, and is measured numerically.

### **Control Variables**

The *age* of the respondent is measured in years. Gender is coded as *male* (1) and *female* (0).

*Family structure* is coded with a set of dummies, indicating that the youth lives in a two-parent household (reference), single-parent household, is in the custody of the state, or custody is unknown.

Reoffender status is coded as yes (1) and no (0).

Table 1. Demographic Descriptive Statistics

|                       | Total (N=858) |        | White (N=523) |        | African American (N=335) |        | Test for Statistical Significance <sup>1</sup> |
|-----------------------|---------------|--------|---------------|--------|--------------------------|--------|--|
|                       | N             | %      | N             | %      | N                        | %      |  |
| <b>Race</b>           |               |        |               |        |                          |        | ---  |
| 0=White               | 523           | 60.96% |               |        |                          |        |  |
| 1=African American    | 335           | 39.04% |               |        |                          |        |  |
| <b>Gender</b>         |               |        |               |        |                          |        |  |
| 0=Female              | 246           | 28.67% | 156           | 63.41% | 90                       | 59.97% |  |
| 1=Male                | 612           | 71.33% | 367           | 36.59% | 245                      | 40.03% |  |
| <b>Age (7-18)</b>     |               |        |               |        |                          |        |  |
| Mean                  | 15.36         |        | 15.35         |        | 15.36                    |        |  |
| Robust Standard Error | 0.05          |        | 0.07          |        | 0.08                     |        |  |

<sup>1</sup> Because individuals repeat in this sample, tests for statistical significance must include a “clustering” variable. This variable identifies charges belonging to one individual and clusters those charges around the individual. Such a feature is available in STATA within the logistic and linear regression commands. As such, statistical significance is determined via bi-variate regression (linear or logistic based on level of measurement).

## **Results**

Due to the amount of missing information, approximately 75% of the juvenile cases reviewed had to be eliminated. Each variable was evaluated for missing data and analyzed separately in correlation to race. The researcher was unable to analyze the data using a multivariate analysis because of the amount of missing data for each variable. Many of the variables the researcher originally sought out to use were not recorded in the cases and those variables had to be eliminated from the data collection process as well. The best-case scenario of variables was found in monthly income, with 27.34% of the 858 cases with information. The worst-case scenario of variables was found in detention, with only 5% of cases containing the data needed.

### **Grades**

There were 240 cases that included information for grades that the students earned. There was information for 137 of the white students and 103 of the minority students. The average grade for white students with the largest percentage was a C with 37.23%, and the lowest was an F with 8.03% of the total cases. The average grade for minority students with the largest percentage was an F with 38.83% and the lowest was an A with 7.77%. The variation among the variable grades was found to be statistically significant (See Table 2).

### **Tardies**

While 392 cases were reviewed (associated with 858 of 1,410 charges included in the original study), only 216 included information on the number of tardies that an individual had received. The mean for the total cases was 5.20 tardies, with a mean of 5.29 for White students and 5.10 for Minority students. This variation is not statistically significant (See Table 2).

## **Absences**

There were 229 court records that included data for the number of absences a student received. The mean of total students was 19.11 absences, while it was 20.58 for White students and 17.34 for Minority students. The variation found in absences is not statistically significant (See Table 2).

## **Detention**

In examining cases, a total of 45 included information related to detention. The mean detention for all students was 4.44. Minority students had a mean detention of 3.57 and White students had a mean of 5.36. The variation found in the variable detention is not statistically significant (See Table 2).

## **Suspension**

There were 137 total cases that included a form of suspension. In-school suspension and out-of-school suspension were not differentiated among the youth's school records and, therefore, are combined in this data set. The mean suspension for the total was 3.38. The white students mean was 3.75 and the minority students mean was 2.89. The variation found is not statistically significant (See Table 2). The lack of differentiation between the types of suspension did not allow for any variation regarding how cases were referred into the system.

## **Retained**

There were 27 juvenile cases that included records of being retained in school, all of which were White students. This resulted in no statistically significant data (See Table 2).

### **Family Status**

Out of 858 total cases, 133 included the youth's family status. Of those 133 cases 90 were for white students and 43 was for minority students (See Table 2).

### **IEP**

Only 62 total cases included information regarding the student having an IEP. Of the 62, 49 were white students and 13 were minority students, which is not found to be statistically significant (See Table 2).

### **Monthly Income**

Of the 858 total juvenile cases, 248 included data regarding the monthly income for the student and their family. The mean monthly income for the total cases was \$1875.74, with white students reporting a mean monthly income of \$1857.54 and minority students reporting \$1922.96. This variation is not found to be statistically significant (See Table 2).

### **School Type**

Due to the lack of information provided in most juvenile court cases, the researcher attempted to find additional variation using the variety of school types (middle school, high school, alternative school) and variables used in this study. The variables suspension, tardies, and monthly income did not provide any statistical variation regarding school type. There was no data regarding alternative schools for the variables retained and IEP. The variables grades, absences, and family status provided some statistical variation but were not found to be statistically significant.

## **Conclusion**

The question this research sought to answer was how school processes affect the disproportionate minority contact that is seen within juvenile court systems. What the researcher discovered through data analysis is that the lack of consistent information recorded in juveniles' court records does not provide for any significant analysis regarding the race of the juvenile. The only variable that was found to be statistically significant was *Grades*. However, the researcher acknowledges that this variation may not be truly significant due to the number of cases that were eliminated. The researcher continued to analyze the data for statistical significance via the complainant and school type and the data was unable to provide any significant variation for either. Because the initial study completed by Lovell and Drummond (2016) analyzed the data for variations among race, charges received, the intake process, the outcomes for each youth, the researcher did not consider it necessary to repeat such analysis for the current study. It is important to understand and acknowledge that the results discussed are really about the lack of data, rather than the lack of statistical significance.

Table 2. Descriptive Statistics

|                                   | Total (N=858) |       | White (N=523) |        | African American (N=335) |       | Test for Statistical Significance <sup>2</sup> |
|-----------------------------------|---------------|-------|---------------|--------|--------------------------|-------|--|
|                                   | N             | %     | N             | %      | N                        | %     |  |
| <b>Grades (N=240)</b>             |               |       |               |        |                          |       | *  |
| 0 = Mostly F's                    | 51            | 21.25 | 11            | 8.03   | 40                       | 38.83 |  |
| 1 = Mostly D's                    | 34            | 14.17 | 16            | 11.68  | 18                       | 17.48 |  |
| 2 = Mostly C's                    | 68            | 28.33 | 51            | 37.23  | 17                       | 16.50 |  |
| 3 = Mostly B's                    | 50            | 20.83 | 30            | 21.90  | 20                       | 19.42 |  |
| 4 = Mostly A's                    | 37            | 15.42 | 29            | 21.17  | 8                        | 7.77  |  |
| <b>School Detention (N=45)</b>    |               |       |               |        |                          |       |  |
| Mean                              | 4.44          |       | 5.36          |        | 3.57                     |       |  |
| Robust Standard Error             | 3.07          |       | 3.82          |        | 1.80                     |       |  |
| <b>School Suspension (N= 137)</b> |               |       |               |        |                          |       |  |
| Mean                              | 3.38          |       | 3.74          |        | 2.89                     |       |  |
| Robust Standard Error             | 2.32          |       | 2.70          |        | 1.54                     |       |  |
| <b>Absences (N = 229)</b>         |               |       |               |        |                          |       |  |
| Mean                              | 19.11         |       | 20.58         |        | 17.34                    |       |  |
| Robust Standard Error             | 16.08         |       | 1.50          |        | 1.48                     |       |  |
| <b>Tardies (N= 216)</b>           |               |       |               |        |                          |       |  |
| Mean                              | 5.20          |       | 5.29          |        | 5.10                     |       |  |
| Robust Standard Error             | 5.58          |       | 6.20          |        | 4.82                     |       |  |
| <b>Retained</b>                   | 829           | 96.85 | 496           | 59.59% | 335                      | 100%  |  |
| 0=No/Unknown                      |               | %     |               |        |                          |       |  |
| 1=Yes                             | 27            | 3.15% | 27            | 40.41% | 0                        | 0%    |  |

<sup>2</sup> Because individuals repeat in this sample, tests for statistical significance must include a "clustering" variable. This variable identifies charges belonging to one individual and clusters those charges around the individual. Such a feature is available in STATA within the logistic and linear regression commands. As such, statistical significance is determined via bi-variate regression (linear or logistic based on level of measurement).

Table 2. Descriptive Statistics Continued

|                                | Total (N=858) |        | White (N=523) |        | African American (N=335) |        | Test for Statistical Significance <sup>3</sup> |
|--------------------------------|---------------|--------|---------------|--------|--------------------------|--------|--|
|                                | N             | %      | N             | %      | N                        | %      |  |
| <b>IEP</b>                     | 796           | 92.77% | 474           | 90.63% | 322                      | 96.12% |  |
| 0=No/Unknown                   |               |        |               |        |                          |        |  |
| 1=Yes                          | 62            | 7.23%  | 49            | 9.37%  | 13                       | 3.88%  |  |
| <b>Monthly Income (N= 248)</b> | 1875.74       |        | 1857.54       |        | 1922.96                  |        |  |
| Mean                           | 1875.74       |        | 1857.54       |        | 1922.96                  |        |  |
| Robust Standard Error          | 1226.53       |        | 85.29         |        | 172.49                   |        |  |
| <b>Family Status (N= 858)</b>  |               |        |               |        |                          |        |  |
| 0 = No/Unknown                 | 725           | 84.50% | 433           | 82.79% | 292                      | 87.16% |  |
| 1 = Yes                        | 133           | 15.50% | 90            | 17.21% | 43                       | 12.84% |  |

## Discussion

Through implementation of zero-tolerance policies in 1994 following the Gun Free School Act, along with its amendments allowing schools more discretionary powers, minority youth are disproportionately tracked into the justice system and effectively pushed out of school. These policies can be traced back as far as *Brown v. Board of Education* and have been tied to the “war on drugs” notorious during President Nixon’s reign in the 1970’s and 1980’s. Through powers afforded to educational institutions from these policies, they are now able to “push out” students who do not perform well on state mandated standardized tests, and further protect the government funding they receive for

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<sup>3</sup> Because individuals repeat in this sample, tests for statistical significance must include a “clustering” variable. This variable identifies charges belonging to one individual and clusters those charges around the individual. Such a feature is available in STATA within the logistic and linear regression commands. As such, statistical significance is determined via bi-variate regression (linear or logistic based on level of measurement).

achieving expected scores. Exacerbating the process associated with zero-tolerance policies are SRO's. Researchers argue that SRO's are ineffective in deterring crime and cost the educational system millions of dollars each year (Archer, 2009; Owens, 2016; Porter, 2015). The final addition to schools as a result of the zero-tolerance policies was a "one size fits all" model for punishment that is comparable to mandated sentencing used in criminal court systems.

The implementation of zero-tolerance policies has increased the likelihood that "at risk" students will fall into the STPP from punishment received at school, affecting a disproportionate number of minority and special education students. Cramer and colleagues (2014) found evidence to support that juveniles are more likely to be arrested by law enforcement while suspended or expelled from school, furthering their contact with the juvenile justice system. A major contributor to the STPP is the lack of cultural competency of many school officials that leads to students being punished for cultural life style characteristics, which is a problem that arose with mandated sentencing in criminal courts. Many researchers suggest that any person who works within the educational system needs cultural diversity/competency training to effectively dismantle the STPP (Darensbourg, Perez, & Blake, 2010; Fenning & Rose, 2007; Gregory, Skiba, & Noguera, 2010; Raible & Irizarry, 2010, Roque & Paternoster, 2011; Skiba & Sprague, 2008).

The initial study completed by Lovell & Drummond (2016) acknowledges the authors found more questions than answers. The question that resonates through the previous and current study is "why is there an insufficient amount of information included in the juvenile court records for minority students, when compared to their white

counterparts?” For example, the pair of researchers were able to demonstrate a statistically significant variation among the intake process (i.e., a case is unfounded or deserves informal processing, is diverted from court via the CDWs diversion program, or it results in a formal petition) of juveniles once a charge is filed. Furthermore, the study demonstrated a significant variation in the decision making once a case reaches court. Lovell & Drummond note “In reflection of racial disparity in decision making, we find that the strongest differences are whether a charge is diverted or petitioned to court and the type of disposition imposed” (pg. 17). This study also suggests that the process of determining initial detention varies mostly for white youth (determined by judge’s discretion) compared to African American youth (determined by “fitting the criteria”). This idea correlates with mandated sentencing discussed previously in that the criteria for sending a youth to detention are meant to be non-discriminative but yet, have a disproportionate impact on minorities. The initial study concludes with a variety of recommendations on how to address DMC, including collaboration across institutions, more consistency and accuracy in the process of collecting information related to the youth, a restorative justice approach to discipline, and implicit bias training (a component of cultural competency training discussed earlier).

### **Limitations**

This project attempted to answer the question: What are the patterns observed in the process through which school behavioral disorders are referred into the juvenile justice system in Hardin County? Due to the amount of missing information, approximately 75% of the juvenile cases reviewed had to be eliminated. The limitations of this study include the inconsistency of data recorded in the youth’s court records. The

main reason such inconsistencies exist is the discretion of the Judge and what information they deem necessary to make a fair judgement for the youth. Another inconsistency that exists, and was often found in the court records in this research, is the negligence to request updated information from the school when additional charges are received by the child. The researcher noted that many times the school records that were requested for the initial charge were simply copied and added to additional trailers, even though these records were not current (i.e., school records for the initial charge were sometimes more than two years old when additional charges were received). Other notable reasons for inconsistency among the youth's records are the movement of youth across counties or states and youth receiving charges in counties where they do not reside. A final explanation for the inconsistencies surrounding the youth's cases is directly related to institutions not collaborating and sharing data among themselves. The author has noted throughout the research that many other studies argue for the collaboration of systems that deal with youth and their families (i.e., educational, judicial, family resource centers).

It is a fool's errand to expect to find the answers to the critical, and necessary, questions posed in this study with the type of data available to the researcher. The only logical way to answer such questions as those posed in this study is to collect school performance data directly from school system records, for the correct time the student received the charges. An additional consideration when trying to answer these critical questions surrounding DMC is that information recorded in case files may vary from information recorded in school systems depending on who recorded it and from whom the information was gathered (such as which court designated worker recorded/requested

information for the youth's file). Due to the inconsistent way that youth records are completed, some variables were adjusted or eliminated during the data collection and analysis processes. The elimination of variables in this study, coupled with the extensive inconsistency of juvenile records, proves itself to be problematic for how we can help kids. Without "good data" we are unable to seek funding for the implementation of programs that will assist in the elimination of DMC, resulting in the continuing expansion of the disadvantages experienced from lower socioeconomic youth.

### **Future Directions**

Had the researcher been provided with more data regarding the student's school performances, the policy implications of the analysis are countless. The schools within the Hardin County educational system could have used the analysis to seek funding to implement alternative solutions for zero-tolerance policies. Two of the more popular options to replace discipline procedures related to zero-tolerance policies are restorative justice and Positive Behavior Intervention and Support (PBIS) programs. These approaches demand accountability, do not discriminate, and provide a safe learning environment.

**Restorative Justice.** Much of the research regarding zero-tolerance policies, the STPP, and DMC calls for an active change in disciplinary procedures used in schools. Restorative Justice emphasizes restoring the harm that has been caused by criminal acts and offers a more balanced response by acknowledging the needs of the offender, victim, and community in which the conflict is embedded (Stinchcomb et al. 2006).

Schiff and Bazemore's (2012) essay reviews the impacts that zero-tolerance policies has had on schools, and then evaluates restorative justice strategies that have

successfully demonstrated the minimization of zero-tolerance discipline in school systems. They recommend that more educational systems implement “juvenile justice practitioners as agents of positive youth development” (including SRO’s taking on the role of “primary prevention intermediaries”) as they argue that both systems (education and justice) serve the same children and the collaboration between systems can intersect youth from becoming more involved in the justice system (pg. 77).

Schiff & Bazemore (2012) note that evaluations on restorative justice programs are minimal since they have only been implemented in 13 states. However, the preliminary research is promising for its success and includes West Philadelphia High School dropping their suspension rate by 50 percent and Denver observing a 40 percent drop in suspensions (pg. 74). Schiff & Bazemore (2012) offer restorative justice practices as an “evidence-based, non-punitive approach to school rule violations,” that will offer an all-encompassing structure to promote the involvement of youth in their education through the collaboration of the educational and justice system (pg. 78).

**Positive Behavioral Intervention and Support Programs.** A suggestion made by Fowler (2011) is to replace the zero-tolerance policy with Positive Behavioral Intervention and Support programs, which “trains teachers, administrators, and school staff to respond deliberately to promote and reinforce positive behaviors and effectively redirect negative behaviors” (pg. 18). Recommendations for such programs include the idea that they need to be created by a host of individuals, which is also seen in most restorative justice approaches. (Carr et al., 2002; Darensbourg, Perez & Blake, 2010; Fenning & Rose, 2007; Killu, 2008; Safran & Oswald, 2003; Skiba & Sprague, 2008). Research also suggests that the accuracy and consistency of the program’s

implementation are key components to effective behavior intervention plans (Cook et al., 2012; Killu, 2008, pg. 144; Houchens, Shippen, & Murphy, 2012; McIntosh et al., 2009).

Other studies report that schools that have implemented such plans are seeing an increase in teacher's satisfaction with their jobs, student's ratings of the school climate have increased while reports of participation in risky behavior and levels of aggression have decreased (Skiba & Sprague, 2008, pg. 42). While there is considerable support for the implementation of such programs, unfortunately there has been minimal research to examine their effectiveness. According to the study by Scott and his colleagues (2005), it would be best if those implementing such programs had intensive cultural competency training in addition to the required training for the PBIS program.

Both restorative justice and PBIS programs can be implemented in any school and studies demonstrate the value they potentially add to the learning environment. The key components for successful alternatives to zero-tolerance policy discipline procedures that are currently being used in schools is cultural competency training, approaching each situation based on the individual offender and their unique circumstances, using a variety of professionals across many institutions, and fidelity of the programs implementation.

## **Conclusion**

It is imperative to answer the questions I have posed in this research so that all children can have an equal chance to succeed. The educational and juvenile justice systems should concern themselves with collecting accurate and timely data for youth records because there is something that can be learned from looking at the complete picture (in accordance with "indirect effects"). Also, sharing information across systems that deal with students will provide a thorough examination of children's demographic

descriptions that can provide explanations for many factors contributing to any discipline and/or behavior issues they may be experiencing. Without seeking answers to the questions posed here and demanding solutions for the disproportionate number of minority individuals affected, the vulnerable population that exists otherwise will exacerbate the issues that society is desperately trying to eliminate. These issues include such things as the already overpopulated prisons, the continuous cost of the “war on drugs,” and the decreasing funds for welfare and government assistance.

While the current study was not able to demonstrate that the patterns observed in the process that school behavioral disorders are referred into the juvenile justice system in Hardin County makes a statistically significant contribution to the current DMC issue, many other lessons were learned. For future research to be statistically significant and contribute to the growing literature, researchers should seek information regarding a student’s school performance from boards of education. This will provide the researcher with a deeper understanding of that school systems discipline procedures, while also being able to afford the researcher an opportunity to gain other variables that may be useful in the data analysis process. Future literature will only be able to make a reputable contribution to combating the growing DMC issue if Juvenile Court Judges become consistent in requesting current school information for every offender and if Court Designated Workers include all the information regarding a juvenile in the Case Management System. Also, future research needs to seek to understand the effectiveness of alternative solutions to zero-tolerance policies, such as PBIS and restorative justice approaches. I further encourage researchers to make these attempts and to create a body of language regarding the way that DMC originates within schools, not in court rooms.

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