

**Black Children Were Jailed for
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Almost Nothing Happened to the Adults in Charge.**

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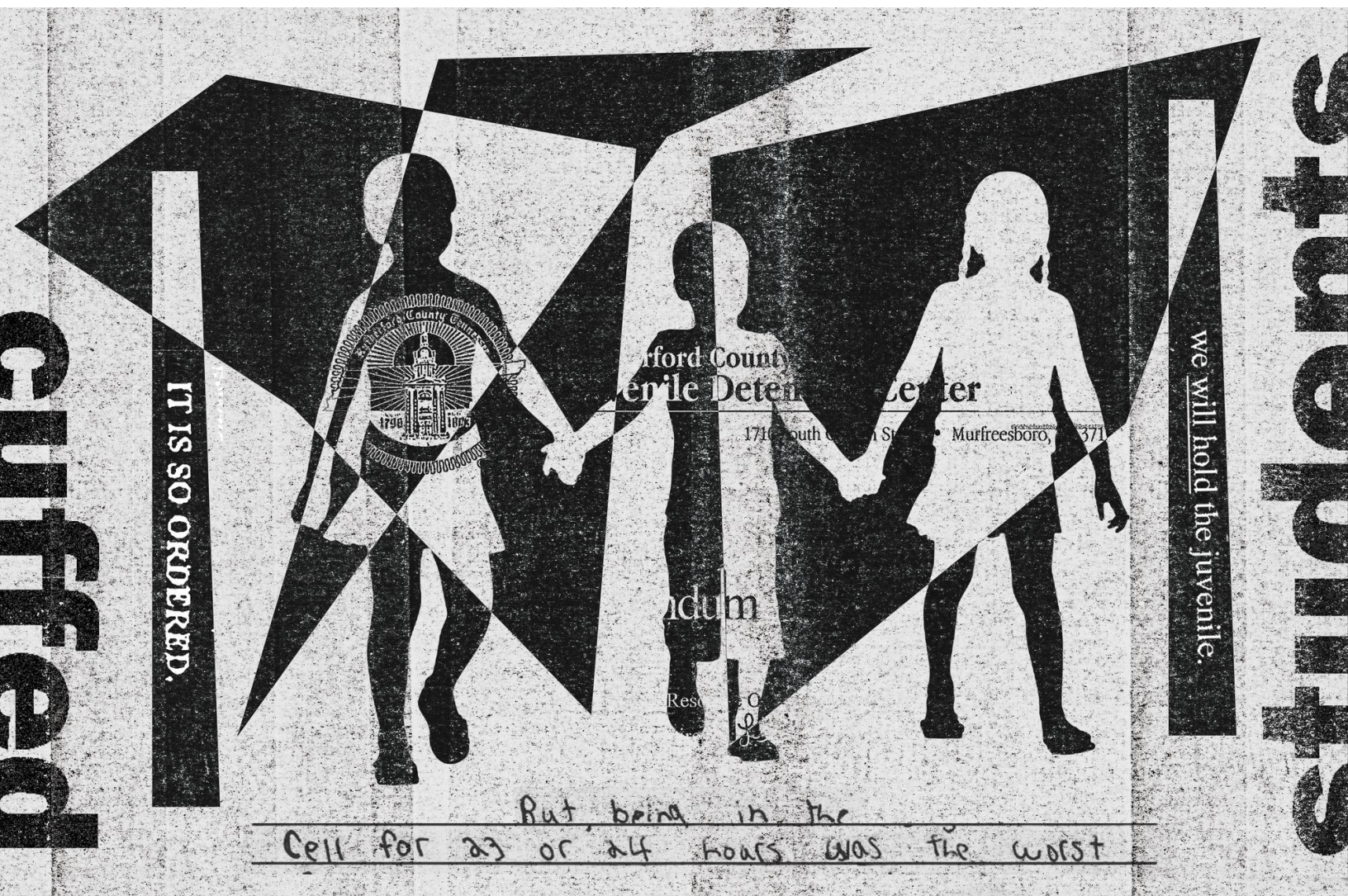
Black Children Were Jailed for a Crime That Doesn't Exist. Almost Nothing Happened to the Adults in Charge.

Judge Donna Scott Davenport oversees a juvenile justice system in Rutherford County, Tennessee, with a staggering history of jailing children. She said kids must face consequences, which rarely seem to apply to her or the other adults in charge.

by Meribah Knight, Nashville Public Radio, and Ken Armstrong, ProPublica

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Chapter 1: “What in the World?”

Friday, April 15, 2016: Hobgood Elementary School, Murfreesboro, Tennessee

Three police officers were crowded into the assistant principal's office at Hobgood Elementary School, and Tammy Garrett, the school's principal, had no idea what to do. One officer, wearing a tactical vest, was telling her: Go get the kids. A second officer was telling her: Don't go get the kids. The third officer wasn't saying anything.

Garrett knew the police had been sent to arrest some children, although exactly which children, it would turn out, was unclear to everyone, even to these officers. The names police had given the principal included four girls, now sitting in classrooms throughout the school. All four girls were Black. There was a sixth grader, two fourth graders and a third grader. The youngest was 8. On this sunny Friday afternoon in spring, she wore her hair in pigtails.

A few weeks before, a video had appeared on YouTube. It showed two small boys, 5 and 6 years old, throwing feeble punches at a larger boy as he walked away, while other kids tagged along, some yelling. The scuffle took place off school grounds, after a game of pickup basketball. One kid insulted another kid's mother, is what started it all.



Screenshots from a heavily filtered video, originally posted to YouTube, showing a scuffle among small children that took place off school grounds.

The police were at Hobgood because of that video. But they hadn't come for the boys who threw punches. They were here for the children who looked on. The police in Murfreesboro, a fast-growing city about 30 miles southeast of Nashville, had secured juvenile petitions for 10 children in all who were accused of failing to stop the fight. Officers were now rounding up kids, even though the department couldn't identify a single one in

the video, which was posted with a filter that made faces fuzzy. What was clear were the voices, including that of one girl trying to break up the fight, saying: “Stop, Tay-Tay. Stop, Tay-Tay. Stop, Tay-Tay.” She was a fourth grader at Hobgood. Her initials were E.J.

The confusion at Hobgood — one officer saying this, another saying that — could be traced in part to absence. A police officer regularly assigned to Hobgood, who knew the students and staff, had bailed that morning after learning about the planned arrests. The thought of arresting these children caused him such stress that he feared he might cry in front of them. Or have a heart attack. He wanted nothing to do with it, so he complained of chest pains and went home, with no warning to his fill-in about what was in store.

Also absent was the police officer who had investigated the video and instigated these arrests, Chrystal Templeton. She had assured the principal she would be there. She had also told Garrett there would be no handcuffs, that police would be discreet. But Templeton was a no-show. Garrett even texted her — “How’s timing?” — but got no answer.

Instead of going to Hobgood, Templeton had spent the afternoon gathering the petitions, then heading to the Rutherford County Juvenile Detention Center, a two-tiered jail for children with dozens of surveillance cameras, 48 cells and 64 beds. There, she waited for the kids to be brought to her.

In Rutherford County, a juvenile court judge had been directing police on what she called “our process” for arresting children, and she appointed the jailer, who employed a “filter system” to determine which children to hold.

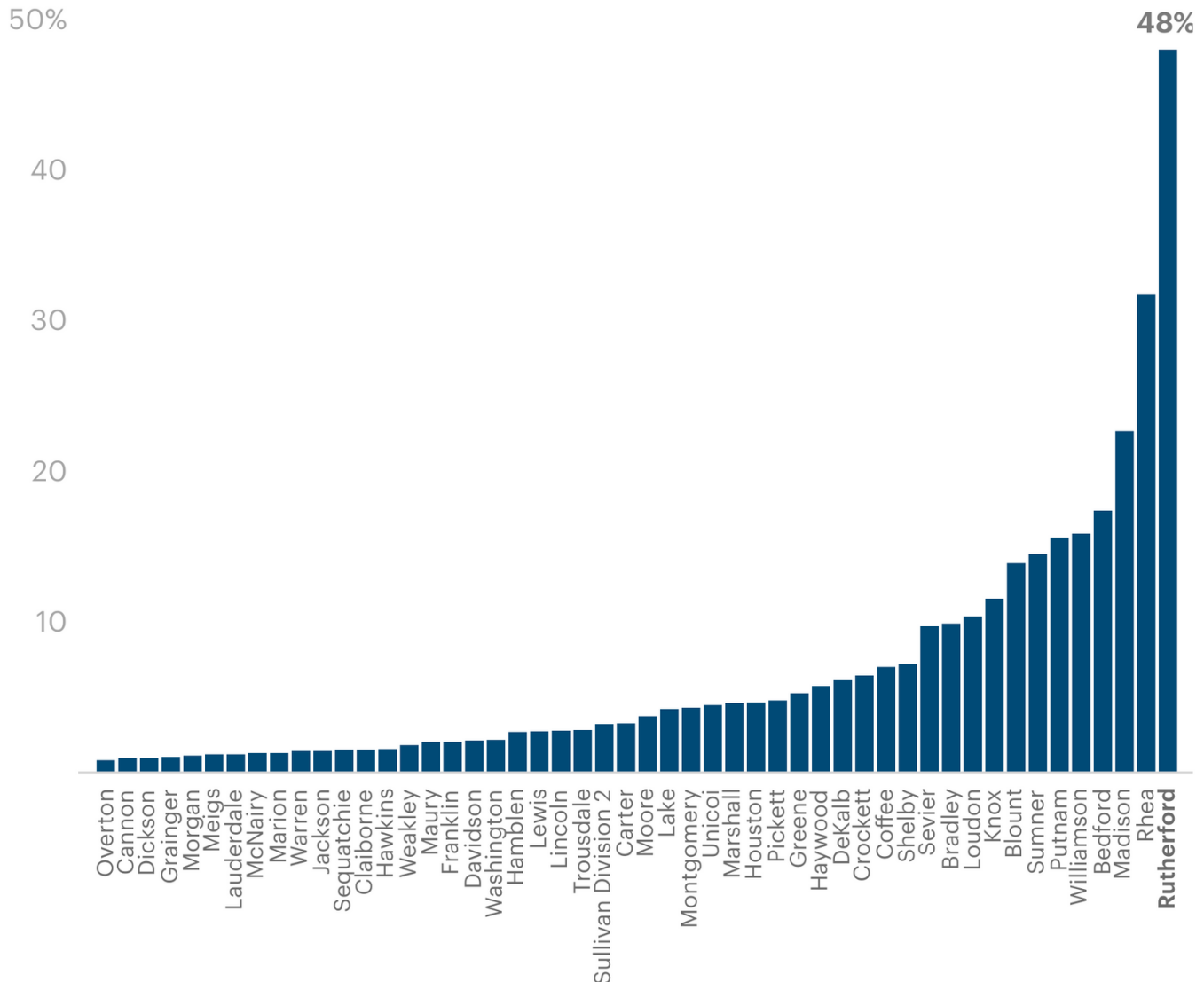
The judge was proud of what she had helped build, despite some alarming numbers buried in state reports.

Among cases referred to juvenile court, the statewide average for how often children were locked up was 5%.

In Rutherford County, it was 48%.

Rutherford County Locked Up Kids in Almost Half of Cases

Tennessee used to publish statistical reports on juvenile courts statewide. For the last year available, 2014, we compiled reports for all 98 courts. Rutherford County locked up kids in 48% of its cases, eclipsing every other jurisdiction. (The graphic below shows the top 50 courts.) The state stopped publishing this data even as it figured prominently in a lawsuit against Rutherford County.



Reports compiled from the Tennessee Administrative Office of the Courts

In the assistant principal's office at Hobgood, the officer telling Garrett *not* to get the kids was Chris Williams. Williams, who is Black, had been a Murfreesboro cop for five years. "What in the world?" he thought, when he learned what these arrests were about. At Hobgood, two-thirds of the students were Black or Latino. Williams wondered if such arrests would be made at a school that was mostly white. He had a daughter who was 9. He pictured her being arrested. This is going to blow up, he thought; I'm going to end up in federal court over this. He considered quitting, but instead tried to get someone to intervene. Tucked in an office corner, he called a sergeant, a lieutenant and a major, but couldn't find anyone to call it off.

The officer not saying anything was Albert Miles III. Growing up, Miles, who is Black, had friends who hated the police. But Miles' dad was a cop. Miles wanted to prove that police could be trusted. That afternoon, Miles had been pulled out of roll call along with another officer; a sergeant told the two to go arrest some kids at Hobgood. The sergeant didn't say why, but at Hobgood, Miles started picking up details. Miles, too, wondered if these arrests would happen at a school full of white students.

The third officer at Hobgood was Jeff Carroll. He'd been pulled out of roll call with Miles. Carroll, who is white, was a patrol officer and SWAT team member. In evaluations, supervisors praised him as a leader, "cool under pressure." Carroll also had no idea what these arrests were about. But his sergeant had ordered them, and he followed orders. Carroll was the officer telling the principal: Go get the kids.



Hobgood's Tammy Garrett
 Stacy Kranitz, special to ProPublica

Garrett asked if she could call their parents first. Carroll told her no. Garrett told the police that one girl had diabetes and got treatment when she arrived home after school. Please, the principal said. Let me call her parent. On this, the police ultimately compromised, saying the girl could get a shot in the nurse's office before being taken to the jail.

Of the two officers telling Garrett what to do — *get the kids, don't get the kids* — Carroll seemed the more aggressive, the principal would say later. She agreed to get the kids.

Having these arrests take place at Hobgood was not something school officials wanted. They wanted kids to feel safe at school. Garrett grew up poor. Nine-tenths of her students were poor. Years before, Hobgood had struggled academically. Now it was a celebrated success. Garrett and her staff had worked to build trust with parents, with students. "I don't give up on kids," Garrett says. But she knew that trust is fragile, and trauma endures.

As Garrett gathered the girls from their classrooms, she believed the police would at least avoid a spectacle. School let out at 2:30. That was minutes away. Garrett's understanding was that the police would keep the girls in the office until school was dismissed and everyone else was gone.

Garrett rounded up the sixth grader, a tall girl with braids who had visions of becoming a police officer; one of the fourth graders, the girl with diabetes; and the 8-year-old third grader. In the hallway, the principal tried to prepare them, saying the police were there regarding a video of a fight. Hearing this, the sixth grader told Garrett that the two other girls hadn't even been there.

After returning to the office with the three girls, Garrett relayed to police what the sixth grader had told her.

Her words were barely out when Carroll made it clear he'd had enough, Garrett said later when interviewed as part of an internal police investigation.

Carroll pulled out handcuffs and put them "right in my face," Garrett recalled.

"And he said, 'We're going now, we're going now, there's no more talk, and we're going now.'"

"And I said, 'But, but, but.'"

Carroll yelled at her, Garrett said. She felt intimidated. Bullied. She worried that if she said any more, she might be arrested herself. “And so I backed off.”

By now the girls were crying and screaming and reaching for the principal, who was also crying, as was the assistant principal. “And it was, it was, it was awful,” Garrett later said.

Carroll handcuffed the sixth grader. Later, asked why, he said because policy allowed him to. After being handcuffed, the sixth grader fell to her knees.

Miles handcuffed the 8-year-old with pigtails. “Just acting out of habit,” he said later. Walking to a patrol car, Miles stopped and thought, “Wait a minute,” and removed the cuffs. “I guess my brain finally caught up with what was going on.”

While Carroll drove those two girls to the jail, the fourth grader with diabetes stayed behind to see the nurse. She was sisters with the sixth grader; her initials were C.C.

In all this back and forth, Principal Garrett realized something. *The other fourth grader.* She had forgotten about her. And now, school was out. The girl had boarded her bus, and was waiting to go home.

The other fourth grader was E.J. Although she’d said “stop,” she was on the police’s list to be picked up for encouraging the fight.

Go get her, the police told Garrett.

Garrett was still crying. She didn’t want to go out to the line of buses and let all those kids see her like that. But she went, feeling she had little choice.

A teacher beckoned E.J. off the bus. Then Garrett escorted her inside, to the awaiting police. E.J., scared and confused, begged for her mother — and threw up on the floor.

The two fourth graders still at Hobgood, E.J. and C.C., were best friends. Williams and Miles walked the girls outside, not handcuffing either. With some parents joining in, the officers formed a prayer circle around the two girls. Miles prayed out loud for the kids to be protected and for God to bring peace and understanding. Then he buckled the fourth graders into a patrol car and drove off. On the way to jail the girls cried, “snot and all,” E.J. would say later. Garrett, meanwhile, pulled out her personal cellphone and began calling parents, no longer willing to do as the police commanded.

For the officers, the confusion didn’t end at the school. It continued once the children began arriving at the jail.

When Carroll walked in with the first two girls, Templeton, the investigating officer, pointed to the 8-year-old and asked what she was doing there. The police had no petition for her, Templeton said. The 8-year-old’s mother soon arrived and took her child home.



A chalk drawing outside Hobgood Elementary School

Stacy Kranitz, special to ProPublica



Left: The playground at Hobgood Elementary School. Right: Rutherford County Juvenile Detention Center.
 Stacy Kranitz, special to ProPublica

Miles brought in the last two girls, the two fourth graders. Then, walking out to his patrol car, he ran into an angry parent, Miles would recall later. It was a father demanding answers. Miles dropped his head, shaking it. The father asked why this was happening. I don't know, Miles answered. We are good people, the father said. I can only imagine what you're feeling, Miles answered. He explained, briefly, the juvenile court process. This is wrong, the father told Miles, over and over. After the third time, Miles, fighting back tears, said he understood, as a parent himself, the father's anger and pain.

Fuck you, the father said.

I understand, Miles answered.

Only later, when he returned to the police station, did Miles allow himself to cry.

When the parent asked why this was happening, Miles had been unable to say. But the answer traces to individual missteps and institutional breakdowns — all on a grand scale.

<https://www.propublica.org/article/black-children-were-jailed-for-a-crime-that-doesnt-exist>

What happened on that Friday and in the days after, when police rounded up even more kids, would expose an ugly and unsettling culture in Rutherford County, one spanning decades. In the wake of these mass arrests, lawyers would see inside a secretive legal system that's supposed to protect kids, but in this county did the opposite. Officials flouted the law by wrongfully arresting and jailing children. One of their worst practices was stopped following the events at Hobgood, but the conditions that allowed the lawlessness remain. The adults in charge failed. Yet they're still in charge. Tennessee's systems for protecting children failed. Yet they haven't been fixed.

Chapter 2: "The Mother of the County"



Judge Donna Scott Davenport during a 2017 deposition. Obtained by ProPublica and Nashville Public Radio

Eleven children in all were arrested over the video, including the 8-year-old taken in by mistake. Media picked up the story. Parents and community leaders condemned the actions of police. "Unimaginable, unfathomable," a Nashville pastor said. "Unconscionable," "inexcusable," "insane," three state legislators said. But Rutherford County's juvenile court judge focused instead on the state of youth, [telling](#) a local TV station: "We are in a crisis with our children in Rutherford County. ... I've never seen it this bad."

Rutherford County established the position of elected juvenile court judge in 2000, and ever since, Donna Scott Davenport has been the job's only holder. She sometimes calls herself the "mother of the county."

Davenport runs the juvenile justice system, appointing magistrates, setting rules and presiding over cases that include everything from children accused of breaking the law to parents accused of neglecting their children. While the county's mayor, sheriff and commissioners have turned over, she has stayed on, becoming a looming figure for thousands of families. "She's been the judge ever since I was a kid," said one mother whose own kids have cycled through Davenport's courtroom. One man, now in his late 20s, said that when he was a kid in trouble, he would pray for a magistrate instead of Davenport: "If she's having a bad day, most definitely, you're going to have a bad day."

While juvenile court is mostly private, Davenport keeps a highly public profile. For the past 10 years she's had a monthly radio segment on WGNS, a local station where she talks about her work.

She sees a breakdown in morals. Children lack respect: "It's worse now than I've ever seen it," she said in 2012. Parents don't parent: "It's just the worst I've ever seen," she said in 2017. On WGNS, Davenport reminisces with the show's host about a time when families ate dinner together and parents always knew where their children were and what friends they were with because kids called home from a landline, not some could-be-anywhere cellphone. Video games, the internet, social media — it's all poison for children, the judge says.

Davenport describes her work as a calling. "I'm here on a mission. It's not a job. It's God's mission," she told a local newspaper. The children in her courtroom aren't hers, but she calls them hers. "I'm seeing a lot of aggression in my 9- and 10-year-olds," she says in one radio segment.

She encourages parents troubled by their children's behavior to use over-the-counter kits to test them for drugs. "Don't buy them at the Dollar Tree," she says on the radio. "The best ones are your reputable drugstores."

Scrutinizing the inner workings of Tennessee's juvenile courts can be difficult. Court files are mostly off-limits; proceedings can be closed at a judge's discretion. But on the radio, Davenport provides listeners a glimpse of the court's work. "I've locked up one 7-year-old in 13 years, and that was a heartbreak," she said in 2012. "But 8- and 9-year-olds, and older, are very common now."

Davenport has lots of favorite sayings. "God don't make no junk," she says to kids, to instill self-worth. To instill fear, she will say, "I'm going to let you be young and dumb — one time." There's no jury in juvenile court, so Davenport decides the facts as well as the law. "And that is why I should get 12 times the pay," she likes to joke.

Davenport enforces a strict dress code in her courtroom, requiring people to "show deference." There will be no untucked shirts. No sundresses, spaghetti straps or spandex. No body piercings, no uncovered tattoos. Pants shall be pulled up, and if a child shows up without a belt, the judge keeps a bag of them, and if she runs out, "you'll just have to make do with a piece of rope," one newspaper profile said.

Davenport says children need consequences. "Being detained in our facility is not a picnic at all," she says on the radio. "It's not supposed to be. It's a consequence for an action."

Davenport's tough talk — and the county's high detention rate — go against a reform movement that started about the same time she went on the bench. Beginning in the late 1990s, the number of kids in lockup began to decline, both nationally and in Tennessee.

Davenport, now 69, grew up in Mt. Juliet, a Nashville suburb. She attended Middle Tennessee State University, in Murfreesboro, majoring in criminal justice.

On the radio, Davenport says she has been "blessed" with an extensive history in law enforcement: "I was trained well in 17 years by different law enforcement agencies." As a juvenile court judge, she says, she can spot "subtle signs" of gang activity, "wearing something to the right or to the left, or a color here or a color there."

Her description of her job history doesn't always match employment records.

Davenport, in a sworn deposition, said her law enforcement career began in 1977 at MTSU, where, as a student, she worked full time as a university police officer for two to three years. But her MTSU personnel file shows her being a part-time dispatcher, then a full-time clerk-typist, then a full-time secretary.

In 1980, Davenport started as a dispatcher for the Murfreesboro Police Department. Then she took another job — not in law enforcement, but in the law department for Nashville, investigating financial claims that might include anything from car accidents to slip-and-falls.

At night, Davenport went to law school. She graduated in 1986. That same year, she told lawyers in a deposition, "I started with the feds." She told radio listeners that for eight years she was "with the U.S. Justice Department, where I analyzed and tracked and helped identify serial killers." But this job wasn't with the Justice Department. Her employer, Regional Information Sharing Systems, received federal funding but isn't a federal agency.

She then became a private investigator, handling "mostly divorces," she told lawyers.

In a deposition, Davenport said she first took the bar exam about a year after finishing law school. She failed, then kept trying.

"How — how many times have you taken the bar?" an attorney asked her.

"I passed on the fifth time," she said.

She was admitted to practice law in 1995, nine years after getting her law degree.

In 1998, she became a juvenile court referee, akin to a judge. One of the county's judges appointed her. (Asked why, he recently said, "I really can't go back and tell you.")

The following year, Rutherford County violated federal law 191 times by keeping kids locked up too long, according to a story later published by The Tennessean. By law, children held for such minor acts as truancy were to appear before a judge within 24 hours and be released no more than a day after that. The newspaper interviewed Davenport, who estimated half those violations occurred because a kid had cursed her or someone else. For cursing, she said, she typically sentenced kids to two to 10 days in jail. "Was I in violation?" she said. "Heck, yes. But am I going to allow a child to cuss anyone out? Heck, no."

In August 2000 — less than three months after the story was published — Rutherford County elected Davenport to the newly created job of juvenile court judge. Her opponent, a major in the sheriff's department, was later charged with sex crimes against minors and, in a plea deal, got probation. Davenport has not had another opponent since.

With juveniles, police in Tennessee typically avoid cuffs and custody, particularly in less serious cases. They instead serve summonses instructing kids and their parents to show up in court.

But that wasn't the routine in Rutherford County. When the Murfreesboro officers arrested the kids at Hobgood, they were following Davenport's "process": arrest, transport to the detention center for screening, then file charging papers. "IT IS SO ORDERED," Davenport wrote in a 2003 memo about her instructions. Four years later she declared that even kids accused of minor violations like truancy must be taken into custody and transported to jail.

Davenport once told Murfreesboro's Daily News Journal: "I know I'm harsh, I'm very harsh. I like to think I'm fair, but I'm tough."

In 2016, the Tennessee Board of Judicial Conduct publicly reprimanded Davenport. In a family law matter, a father's lawyers had asked to move his case to another county. By law, they were allowed to. But Davenport called "the father and/or his attorneys" a "sneaky snake," the reprimand said. What's more, she ordered that a transcript of her words be forwarded, possibly tipping the next judge to her animosity. The reprimand found that Davenport's "intemperate conduct" threatened the right to a fair hearing.

In some other cases, appeals courts have taken Davenport to task through unusually blunt language.

In one, Davenport was overturned twice. Davenport, finding that a mother had neglected her daughter, granted custody to another couple. Two higher courts disagreed and ordered Davenport to reunify the mother and child. Instead, Davenport terminated the mother's parental rights. The other couple then adopted the girl, after being "exhorted" by Davenport to move quickly, according to a state Court of Appeals opinion.

The adoption went through while a challenge to Davenport's parental termination ruling was still pending. In the second go-round, a state appeals court judge made clear his displeasure, saying, during oral argument, "Our little system works pretty simply": If a higher court tells a lower court to do something, the lower court does it. "That didn't happen in this case," he said. Two months later, the appeals court overruled Davenport for a second time. Saying it was "troubled by the proceedings to this point," the court ordered Davenport to reunite the mother and child — "expeditiously."

Davenport, through a spokesperson, declined our interview request, to which we attached 13 pages of questions. Previously, when asked about the county's arrest practices, Davenport told lawyers that she "can't tell law enforcement what to do." She told a local newspaper that her court produces "a lot of success stories." She told radio listeners, "I want the children that come in front of me to leave better than they came in."

Chapter 3: "Yeah, That's the Charge"

Friday, April 15, 2016: Judicial Commissioners' office, Murfreesboro, Tennessee

On the same Friday afternoon as three police officers jammed into the assistant principal's office at Hobgood Elementary School, three other people huddled in another office a few miles away, to discuss what charge these kids could face.

Chrystal Templeton, the police officer investigating the video, wanted to arrest every kid who watched the fight and "get them all in front" of Davenport, she would say later during an internal police investigation. Charging them was helping them, Templeton believed, because "juvenile court is about rehabilitation."

Templeton thought an appropriate charge might be conspiracy to commit assault. But then she met with Amy Anderson and Sherry Hamlett, two judicial commissioners authorized by Rutherford County to issue arrest warrants. Anderson told Templeton that she thought the only child who could be charged with conspiring was the kid who recorded video of the fight on a cellphone.

So they went in search of another charge, with Hamlett checking the state's criminal code on a computer.

Templeton had joined the Murfreesboro Police Department in 1998, when she was 21. By the time of the arrests at Hobgood, she had been disciplined at least 37 times, including nine suspensions. She once left a loaded pistol on the seat of a patrol car, according to her personnel file. During a pursuit, she failed to turn on her dash cam. Another time she lost control of her patrol car and hit a Ford Explorer, which, in turn, hit a Nissan Pathfinder while Templeton's patrol unit, spinning, smacked a Toyota Sequoia. In all, four cars were damaged and seven people injured, including Templeton.

In the lead-up to the Hobgood arrests, Garrett, the school's principal, had heard grumbling about Templeton. Templeton was a school resource officer — not at Hobgood, but at two other schools in Murfreesboro. Both schools' principals complained that Templeton was often absent. Meanwhile, one of Hobgood's resource officers warned Garrett that Templeton's handling of the case was going to cause a "shitstorm." But that officer didn't share her concerns with police higher-ups. She believed Templeton's sergeant always made excuses for her, so what was the point?

Templeton had begun investigating on Wednesday, two days earlier. To try and identify all the kids, she asked around at schools and in the neighborhood where the fight took place. One parent she approached for help was E.J.'s mom. Templeton assured her no one was in trouble, that she just wanted to give the kids a talking-to, E.J.'s mom would say later. E.J., who was with her mom during this meeting, said she had been there. It was her on the video saying, "Stop, Tay-Tay." On a piece of paper, on the hood of Templeton's patrol car, E.J. and another girl who was with them listed the onlookers. And that was Templeton's investigation. "My case is the video and the list," she would say later, even though she couldn't match any bystander to any image in the video.

The victim, the boy being punched, told Templeton the kids were all friends now. Templeton told him she understood. She then asked the child, "Do you think that there needs to be some consequences for what happened?" she would later recall. "And he said yes."

Templeton wanted guidance. She believed the boys throwing punches were too young to be charged with a crime. An assistant district attorney agreed. The assistant DA also told Templeton she didn't believe there was any single charge appropriate for all the kids gathered around. But Templeton still wanted to charge them all.

Inside the judicial commissioners' office, Hamlett discovered an alternative to conspiracy to commit assault.

Her search turned up a Tennessee statute defining "criminal responsibility for conduct of another." It says, in part: A person is "criminally responsible" for an offense committed by another if "the person causes or aids an innocent or irresponsible person to engage in" the offense, or directs another to commit the offense, or "fails to make a reasonable effort to prevent commission of the offense."

Hamlett shared her find with Templeton. They went through the statute line by line, with Anderson joining in.

"I looked at the charge to the best of my ability, from my experience was like, 'Yeah, that's, that's the charge,'" Templeton would later say. (When she subsequently apprised a higher-up in the police department, the higher-up wasn't so sure. But he didn't warn her off. "No one ever said no," Templeton said later, adding, "If somebody told me, 'No, stop,' I would have stopped.")

In the United States, it is typically the prosecutor's job to review a police investigation and decide what charges, if any, to file. But Tennessee allows counties to hire judicial commissioners to fill this role. From issuing warrants to setting bail to conducting probable cause hearings, Rutherford County's judicial commissioners can take on tasks that traditionally fall to judges or prosecutors — without needing the legal training of either.

County judges recommend people for the job. County commissioners appoint them.

Rutherford County opens the job to anyone with a Tennessee driver's license and a high school diploma, supplemented by some college-level course work or vocational training and some office work.

Anderson, a county employee since 1998, was disciplined shortly before this case. According to investigative records, she had passed a note to a sheriff's clerk. The clerk tore it up, then left with Anderson. Someone fished the note's scraps from the trash and taped them together. The note read: "Could I get a few? If not, that's fine. It's my *hip*."

In an internal sheriff's investigation, the clerk admitted giving Anderson two prescription painkillers. That was illegal, a lieutenant wrote. He informed a county judge, who said they "would handle the situation administratively." Anderson received a letter of warning, according to her personnel file.

Hamlett started as a judicial commissioner in 2008, making \$8.50 an hour. Her application listed a high school diploma, and no college. Her previous job was in a small-town post office where her responsibilities included "computer work and general office duties."

When Hamlett came up with "criminal responsibility for conduct of another" as a possible charge, there was a problem. It's not an actual charge. There is no such crime. It is rather a basis upon which someone can be accused of a crime. For example, a person who caused someone else to commit robbery would be charged with robbery, not "criminal responsibility."

But in the judicial commissioners' office that Friday afternoon, 10 petitions were issued, each charging a child with "criminal responsibility." The petitions didn't distinguish the kids' actions; the documents were cookie-cutter, saying each child "encouraged and caused" two other juveniles to commit an assault.

Templeton signed each petition. Anderson also signed at least some of them. Templeton then left the judicial commissioners' office, the 10 petitions in hand.

After the four arrests at Hobgood, other children named in the petitions were brought in by their parents or rounded up by police.

(Templeton, through her lawyer, declined to comment. Anderson and Hamlett did not respond to interview requests. A supervisor in the judicial commissioners' office told us the two had no comment, and neither did he.)

On Saturday, the day after the scene at Hobgood, police went to the home of a sister and brother who were 12-year-old twins. In court records they would be identified as J.B.#1 and J.B.#2. Officers arrested and handcuffed both children, even as the girl cried and begged to stay with her mother, and the mother pleaded with police not to use handcuffs. The mother recently said, "It hurt me to my heart ... for them to take my kids." Two of her other children watched the arrests, as did three of her nieces. Afterward, her other children had nightmares of being arrested, she said.

The officers put the twins in a patrol car and took them to the juvenile detention center to be processed.

Chapter 4: "We Will Hold the Juvenile"

When police took the 12-year-old twins to the Rutherford County Juvenile Detention Center on Saturday, April 16, 2016, the odds that either would be jailed were long, at least under Tennessee law.

Recognizing the harm that can come from incarcerating kids, Tennessee lawmakers have placed narrow limits on when a child accused of being delinquent can be held in a secure lockdown prior to receiving a court hearing. The child must fit one of six categories, precisely defined. They include being a jail escapee; being wanted elsewhere for a felony offense; or being accused, on substantial evidence, of a crime resulting in serious injury or death.

These two 12-year-olds were charged on negligible evidence with a crime that's not an actual crime for something in which no one was seriously hurt.

Rutherford County, however, had its own system for deciding whether to keep a child under lock and key.

Its written procedure, imprecise and broad, boiled down to whether a child was considered by jailers to be a “TRUE threat.” Jailers allowed the 12-year-old girl to go home. But they locked up her twin brother. Of the 10 children charged in this case, all Black, four were girls and six were boys. Every girl was released. Of the boys, four were jailed, according to court records.

Those four boys became a small part of a big group. In the fiscal year that encompassed April 2016, Rutherford County jailed 986 children for a total of 7,932 days.



Jacorious Brinkley
 Stacy Kranitz, special to ProPublica

J.B.#2, the 12-year-old boy, spent two nights in the detention center, court records show. While there, he was placed in solitary confinement as punishment for standing at his cell’s window, a lawsuit would later allege. We recently interviewed J.B.#2, whose name is Jacorious Brinkley. (He’s 18 now and is OK with us using his name.) A guard, Jacorious said, kept walking past his cell, “saying, like, ‘You can’t, you can’t be by the door. You got to sit down.’”

The person who runs the detention center is Lynn Duke. Davenport initially picked someone else, but her first appointee was arrested on a drug charge only hours after receiving the congratulations of county commissioners. Davenport quickly named Duke as replacement. Duke, a former youth services officer, became director on Jan. 1, 2001, and has remained in that role ever since.

Duke reports to Davenport, but does not consult her daily. In 2005, Duke emailed the judge to say she was feeling guilty for not checking in more. “If you need me to do anything ... PLEASE TELL ME!” Duke wrote, to which Davenport replied: “GIRL, if I had any concerns or problems you would hear from me. YOU DO A GREAT JOB!!!!”

When Duke first became director, the county detained kids in a deteriorated 19th-century jail separate from the court building. A local newspaper editorial bemoaned the sight this produced in the public square: kids, shackled together, in orange jumpsuits, “shuffling along the sidewalk and into the Judicial Building.” “Not that we’re afraid to see juveniles cuffed and heading toward justice, but it is a disturbing thing that could be avoided if juvenile court could be held at the detention center,” the editorial said.



Lynn Duke during a 2017 deposition. Obtained by ProPublica and Nashville Public Radio.

In 2003, Rutherford County hired a consulting firm to help design a new detention center. The next year the firm produced a lengthy report, alerting Rutherford County that it was locking up kids at an exceptionally high rate. Jailing children should be “the last of a number of options,” the firm wrote. Less restrictive alternatives not only save money, they’re “more effective in reducing recidivism,” making them better for children and the community.

Scale down, the report recommended. Build a 35-bed juvenile detention center, with room to add on later. Also, build shelter care: 10 beds, in a residential setting, for runaways or other kids who pose no real threat to public safety.

In 2005, Rutherford County dropped the consulting firm and rejected its advice. The county opted for a 64-bed detention center, with no shelter care.

The center, attached to new courtrooms for Davenport and her magistrate, opened in 2008. The complex’s cost, coupled with that of a nearby correctional work center for adults, was \$23.3 million.

Duke and Davenport have gushed about their new workplace. A “dream come true,” Davenport called it. They offer public tours. “You’ll see booking ... bring your family ... [have] a little piece of cake,” Davenport told radio listeners in a 2015 segment. They also lauded the jail staff. “We are a well-oiled machine, so there is not much to report,” Duke told county commissioners.

On occasion, news reports have revealed embarrassing staff breakdowns. Duke fired one officer who pepper-sprayed a kid in his cell, after which the kid chased the officer down and beat him up. (The officer, in a statement, said he was confident he followed procedure.)

In another case Duke promoted a corporal to sergeant despite a troubling disciplinary record; Duke then fired the sergeant after she entered a cell, removed her belt and struck a child with it, according to an internal investigation's findings. The sergeant denied hitting the child, saying she had just removed her belt and made a popping sound with it. (When we pulled this officer's personnel file, we discovered she had originally been recommended for hire by Davenport, who wrote a letter lauding her "professional demeanor" and "enthusiasm for the world of juvenile law.")

When the new center opened in 2008, Duke incorporated a "filter system" into the jail's written manual. When police arrest a child, they bring the child to jail. There, under the system, staff decide whether to hold the child before a detention hearing, which could take place days later. Say a child is hauled in for something minor, like skipping school. Under the filter system, the child would be locked up if deemed "unruly." But the filter system defines "unruly" simply as "a TRUE threat," while "TRUE threat" is not defined at all.

So any child, no matter the charge, who is considered a "TRUE threat," however that's interpreted, can end up being locked up.

Plus, the police can weigh in. In a 2013 email, Duke encouraged sheriff's officers to let her staff know if they wanted a child detained. "If they say I really want this kid held, 9 times out of 10 we can make it happen," she wrote. She went further in a memo to school resource officers, writing, "Even if we would normally release a juvenile ... any time a local law enforcement officer requests a juvenile be detained and agrees to come to court to testify we *will hold* the juvenile."

Detention center staff could be quizzed on the filter system when up for promotion, or disciplined for not applying it as written, according to personnel records. The staff member who made her way up to sergeant before being fired said in a deposition, "We were told when in doubt, hold them 'cause it's better to hold a kid ... that should have been released than release a child that should have been held."

In 2016, Jacorious Brinkley joined in a lawsuit asking for the filter system to be stopped. When Duke was deposed in 2017, she called the system a guideline. Asked when it applied and what it dictated, Duke repeatedly said, "Depends on the situation."

"Is it your policy or not?" a lawyer asked Duke.

"No. Yes. It — it's a policy to use it when necessary," Duke said.

Duke declined our request for an interview, writing in an email, "I appreciate your interest in Rutherford County and its youth, but decline to participate at this time." Elsewhere she has consistently expressed pride in her operation, saying Rutherford County has the "best juvenile detention center in the state of Tennessee."

Rutherford County doesn't just jail its own kids. It also contracts with other counties to detain their children, charging \$175 a day. "If we have empty beds, we will fill them with a paying customer," Duke said at one public meeting.



Jacorious Brinkley's mother, Jackie Brinkley Stacy Kranitz, special to ProPublica

Duke reports monthly to the county commission's Public Safety Committee. At these meetings — we watched more than 100, going back 12 years — commissioners have asked regularly about the number of beds filled. "Just like a hotel," one commissioner said of the jail. "With breakfast provided, and it's not a continental," added a second. At another meeting a commissioner said it would be "cool" if, instead of being a cost center, the jail could be a "profit center."

When, at one meeting, Duke said "we get a lot of business" from a particular county, a commissioner chuckled at Duke's word choice. "Business," he said. This brought awkward laughter from other commissioners, leading the committee chair to say: "Hey, it's a business. Generating revenue."

Chapter 5: "They're Not Coming Out Better Than They Went In"

Friday, April 15, 2016: Rutherford County Juvenile Detention Center

She had tried to stop the scuffle. The evidence was right there, in the video. *Stop, Tay-Tay. Stop, Tay-Tay.* Then, asked by police for help, she had helped. The police had responded by arresting her, as she vomited and cried, saying that she had "encouraged and caused" the fight.

When E.J. was taken to the detention center, she was processed along with C.C., her best friend. Jail staff recorded E.J.'s name and birthdate (she was 10 years old), conducted a 16-point search and confiscated her jewelry, all her small rings. Then they placed the two fourth graders in a holding area.

The air, the bench, everything was cold, E.J. remembers. She heard buzzing, and doors opening and shutting.

E.J. and C.C. sat and cried — E.J., who had tried to stop the fight, and C.C., who, as her sister had told Principal Garrett, was not even there. She had been at a pizza party, celebrating her basketball team's championship.

E.J. remembers C.C. saying something to her sister, in a nearby holding cell, and she remembers the jail staff's reaction. The grownups in charge told the children: *Be quiet.* "It was like a demanding," E.J. recalls.

E.J. was released the day of her arrest. Come Monday, she was afraid to go back to school, worried the police might pick her up again.

After the outcry over these arrests, the charge against E.J. was dismissed, as were the charges against all the other kids. But E.J.'s mom could see signs of lasting trauma. E.J. had bad dreams about the arrest. She didn't trust the police. For two or three months, E.J. received counseling.

In July 2016, 10-year-old E.J., through her mother, sued Officer Templeton in federal court. Her lawsuit was later expanded into a class action against Rutherford County.

Her lawyers wanted to know: How many kids were there who, like E.J., had been improperly arrested? How many kids had, like Jacorious Brinkley, been improperly jailed? The lawyers gathered large samples of arrest and detention records from an 11-year period, ending in December 2017. Then they extrapolated.

They would eventually estimate that kids had been wrongly arrested 500 times. And that was just for kids arrested by the sheriff's office. This estimate didn't account for other law enforcement agencies in the county that followed Davenport's "process." As for how many times the juvenile detention center had improperly locked up kids through its "filter system," the lawyers estimated that number at 1,500.

Based on their access to the usually confidential records, the lawyers created a spreadsheet showing that more than 50 kids, identified by their initials, had been jailed for offenses that wouldn't be crimes if they were adults. While most were 14 or older, exceptions abounded. C.V., D.L. and J.S., all age 13, were locked up for being "unruly"; J.B., age 12, for "truancy"; and A.W., age 11, for "runaway."

The lawyers obtained the jail's intake procedures, detailing how kids are required to shower while watched by a staff member of the same sex. "Constant visual shall be maintained," the procedures say. All braids shall be removed, and every scar, mark and tattoo, unless "located in a private area," photographed.

The lawyers cited research on how arresting and detaining kids hurts not only the children, but society. Kids who have been arrested and jailed are more likely to commit crimes in the future. They're more likely to struggle in school, and to struggle with drugs and alcohol. "Detention makes mentally ill youth worse," the lawyers wrote. Detention makes kids more likely to hurt themselves.

In the class-action lawsuit, one of the lead plaintiffs is Dylan Geerts. While E.J. alleged wrongful arrest, Dylan alleged he was illegally jailed.



Dylan Geerts Stacy Kranitz, special to ProPublica

When Dylan was 14, his uncle killed himself. The two had been close. Afterward, Dylan started talking of taking his own life. His dad took him to a hospital, where Dylan stayed for a week. Doctors diagnosed him as being bipolar and prescribed lithium.

Two months after Dylan turned 15, he spent a weekend night with a friend. "Me and him were like fuel to each other's fire," Dylan says. They went looking for unlocked cars, for things to steal. About 3:30 a.m. on

Sunday, Sept. 15, 2013, a police officer spotted them. They ran, but he caught them. They had lifted a radio, a hat, a phone case and cologne. Dylan was charged with six crimes. The crimes weren't violent. There were no weapons involved. Dylan had never been arrested before. But when police took him to the Rutherford County Juvenile Detention Center, the staff, using the filter system, locked him up.

At the detention center, he says, he didn't get his lithium: "Not a dose." He spent almost all his time alone in his cell. Going off medication affected "my moods, my suicidal thoughts and my manic depressive disorders," he says. "Twenty or 21 hours a day are a lot of time to think and let your mind go wild, especially when you're bipolar." He felt jittery. "It's like your stomach has dropped and your chest is real tight and you're real nervous ... it's like having stage fright ... all day, every day." Classwork was superficial. He was in high school, but they had him doing simple multiplication: "11 times 11, 5 times 7 ... I got an entire worksheet of that."

Once, he used the intercom inside his cell to ask for toilet paper. "I was told I would be put on lockdown if I used the intercom system a second time." Another time, outside his cell, he was told by a guard that he had a phone call from his father. "I stood up and then another guard jumped up and said, 'You don't stand unless you're allowed permission to stand,' and threatened to pepper-spray me."

Three days after his arrest, he appeared before Judge Davenport. She seemed hostile, he says, the hearing perfunctory. Davenport released him, but placed him on house arrest. So for more than two months he was either at home or at school. "Or you're following your dad like you're on a leash." He couldn't see friends. He wasn't even allowed to text them.

Dylan's dad would say that to his mind, house arrest was "the worst thing you could ever do to a child, because he's looking out a window." Community service would have been better, something "to preoccupy his time, not un-occupy his time."

After Dylan was released from detention, he found his lithium no longer worked. He started on a string of other medications. He fell behind in school. In the 16 months after, he tried three times to kill himself. To his dad, the change in Dylan was dramatic. Before detention, "He came to me and said, 'I was having trouble with thoughts in my head.' After detention it was acting on thoughts in his head."

Dylan doesn't like having his name attached to the class-action lawsuit. But "someone has to be representative," he says. "If there's no actual story to it, then no one cares." We interviewed Dylan this year, in his new home outside Rutherford County. He said if he could, he'd tell Davenport, "They're not coming out better than they went in."

The lawyers representing E.J. and Dylan discovered that for children swept up in Rutherford County's juvenile justice system, the harm could go beyond being arrested or jailed. Many children, once jailed, were placed in solitary confinement.

In April 2016, mere days after the Hobgood arrests, Duke's staff received Davenport's approval to isolate, indefinitely, a teen with developmental disabilities. Jailers confined Quinterrius Frazier, 15 years old, to his cell for 23 hours a day while denying him music, magazines or books, except for a Bible.

By that time, President Barack Obama had banned solitary confinement for kids in federal prison, citing the "devastating, lasting psychological consequences." But Rutherford County allowed isolation in eight ascending levels, calling it "crucial" that kids "understand there are consequences for all behaviors." Level 1 was for 12 hours. Level 8 was indefinite.

The lawyers for E.J. also represented Quinterrius, in what became a second class action. That federal lawsuit ended with Rutherford County being permanently banned from punishing kids with solitary. A federal judge called the practice inhumane. The county, in settling, did not admit any wrongdoing.

Quinterrius recounted his time in solitary in a court document. He wrote that with nothing to do and no

bedsheets until nighttime, “I just do push up until I can’t anymore than sleep with my arm’s in my sleeves until I can’t sleep anymore.” Although it was forbidden, he sometimes talked through vents or cracks to whoever was jailed above or beside him. The hardest part, he wrote, was when jailers would cover his cell’s window with a board. Then he couldn’t even see another kid’s face.

We interviewed Quinterrius this summer, with his mother. He’s 20 now, and is fine with us using his name. He told us that in solitary, he felt like an animal: “They open the flap, feed me and close it.” In his cell, he began talking to himself. And now, five years later, “I still talk to myself a little bit just because that’s what I did for so long.” When we talked with him, he tapped on his phone and pulled on his hair. His mother, Sharieka Frazier, said since his time in solitary, her son seems to need constant stimulation, from music, his phone, the television. “He’s probably struggling now,” she told us during the interview.

“Are you struggling?” she asked her son. “Are you OK?”

“OK, I’m just, I’m OK, mama,” he told her, dropping his head into his palm.



Left: Quinterrius Frazier’s bedroom. Right: His mother, Sharieka Frazier. Stacy Kranitz, special to ProPublica

Chapter 6: “There Were No Concerns”

In the immediate aftermath of the arrests at Hobgood Elementary, the Murfreesboro police chief promised an internal investigation. By year’s end, the department had finished its report.

The officer who bailed before the arrests got a one-day suspension. So did the sergeant in charge of school resource officers. Three other supervisors also were disciplined: the sergeant, lieutenant and major who had not stepped in, even as Officer Williams called them from the assistant principal’s office, raising the alert. Each received a reprimand.

As for Templeton, who had initiated the arrests, the department made one finding: Her work had been “unsatisfactory.” She received a three-day suspension — her 10th suspension in 15 years — then kept working.

She retired in 2019 and, according to her LinkedIn profile, is now a life coach and member of Mary Kay, a multilevel marketing company that sells cosmetics.

Nashville police also participated in this investigation, to produce an external report with recommendations. Together, the two police departments delved into one of the case’s biggest missteps: the use of a charge that doesn’t exist.

The district attorney for Rutherford County confirmed to the police investigators that there’s no such crime as “criminal responsibility.” “You should never, ever see a charge that says defendant so-and-so is charged with criminal responsibility for the act of another. Period,” he said.

The investigators interviewed 13 police officers, four school officials, two prosecutors and a pastor. But two people refused to be interviewed: Amy Anderson and Sherry Hamlett, the two judicial commissioners.

They “failed to cooperate,” a Nashville sergeant wrote. “This is unfortunate. ... Important information could have been obtained.” In his recommendations, the sergeant wrote that it’s “worth considering” whether police should give more weight to advice from prosecutors than judicial commissioners.

Hamlett was reappointed as a judicial commissioner in 2017, Anderson in 2019.

Their personnel files include no mention of this case.

All 11 children arrested over the fight captured on video sued in federal court. Defendants included the city of Murfreesboro, Rutherford County and various police officers.

At least six of the 11 children had been handcuffed. The four who were locked up spent twice as many days in jail, collectively, as Templeton did on suspension.

Starting in 2017, all 11 children received settlements, for a combined \$397,500. For at least five children, some money was earmarked for counseling.

Rutherford County also faced the class action accusing it of illegally arresting and jailing children.

In January 2017, Davenport arrived at a law firm to be questioned by the lawyers for E.J. and so many other children.

Kyle Mothershead, a specialist in civil rights cases, deposed her. He knew about Davenport's strict dress code — and he made sure to flout it. He wore blue jeans and a white button-down shirt, untucked. He later told us he was thinking, "I am going to fucking spit in her eye and come in all casual and take her off her little throne."

Mothershead asked Davenport if she ever kept tabs on the number of kids detained.

"That's not my job is to know statistics," Davenport said.

Mothershead asked if she'd ever consulted with Duke about the filter system.

Not that she could recall, Davenport said, adding, "I don't micromanage her."

Mothershead asked about Davenport's orders to law enforcement to take children to the detention center upon arrest.

"Because that's our process," Davenport said.

"OK. But I just want to make sure that we're clear," Mothershead said. "So — so that — that's your process because you personally have ordered that process into existence?"

"From the orders, apparently so. Yes."

In May 2017, a federal judge ordered the county to stop using its filter system, saying it "departs drastically" from ordinary standards. By being subjected to "illegal detention," he wrote, "children in Rutherford County are suffering irreparable harm every day."

This year, in June, Rutherford County settled the class action, agreeing to pay up to \$11 million. Individual payouts figure to be around \$1,000 for each claim of wrongful arrest and about \$5,000 for each claim of unlawful detention. The county, as part of the settlement, "denies any wrongdoing in any of the lawsuits filed against it."

With the end of the filter system, Rutherford County now jails fewer of its kids than before.

But that doesn't mean its jail is ramping down. Quite the opposite. The jail keeps adding staff. Mark Downton, one of E.J.'s attorneys, says the county has "shifted gears." Forced to stop jailing so many of its own children, Rutherford County ramped up its pitch to other places, to jail theirs.

The county has created a marketing [video](#) titled "What Can the Rutherford County Juvenile Detention Center Do For You?" Over saxophone music and b-roll of children in black-and-white striped uniforms, Davenport narrates. She touts the center's size (43,094 square feet), employees ("great"), access to interstates (I-24, I-65, I-40) and number of cells, which she refers to as "single occupancy rooms." "Let us be your partner for the safe custody and well-being of the detained youth of your community," Davenport says.

Thirty-nine counties now contract with Rutherford, according to a report published this year. So does the U.S. Marshals Service.

How did Rutherford County get away with illegally jailing kids for so long?

The Tennessee Department of Children's Services licenses juvenile detention centers. But its inspectors didn't flag Rutherford County's illegal filter system, which was right there, in black and white. We collected

nine inspection reports from when Duke put the system in until a federal judge ordered it out. Not once did an inspector mention the jail's process for deciding which kids to hold. "There was very little graffiti," an inspector wrote in 2010. "Neat and clean," the same inspector wrote in 2011, 2013 and 2014. Two inspection reports in 2016 said, "There were no concerns regarding the program or staff at the detention center."

We requested an interview with the department's longtime director of licensing, to ask how inspectors could miss this. The department refused to make him available.

The state's failures don't end there.

Tennessee's Administrative Office of the Courts collects crucial data statewide. In 2004, the consultant hired by Rutherford County used that data to sound an alarm: Rutherford County was locking up kids at more than three times the state average.

But then, Rutherford County stopped reporting this data. From 2005 to 2009, the county had 11,797 cases of children being referred to juvenile court. How many were locked up? The county claimed to have no idea. "Unknown," it reported, for 90% of the cases. The county's data, now meaningless, couldn't be used against it.

Later, when the county resumed reporting how many kids it detained, lawyers representing children sounded a second alarm. By 2014, the county was locking up children at nearly 10 times the state average. But then the state stopped publishing its annual statistical report, which had provided the statewide comparison points that allowed troubling outliers to be spotted.

In 2017, a state task force on juvenile justice concluded that Tennessee's "data collection and information sharing is insufficient and inconsistent across the state." This "impedes accountability," it reported. The following year, a state review team reported that without good data, "the state cannot identify trends." The team recommended creating a statewide case management system with real-time, comprehensive data. But that hasn't happened.

We sent written questions to Tennessee's Administrative Office of the Courts, asking why it stopped publishing the annual statistical report and about the data gaps. The office's spokesperson didn't answer.

While Rutherford County's filter system was ultimately flagged (by lawyers, not through oversight), it is only one illegal system under one juvenile court judge. With Tennessee's inadequate inspections and data, there could be trouble in any of the state's other 97 juvenile courts, without any alarms being sounded.

In Rutherford County, Davenport still runs juvenile court, making \$176,000 a year. (She's up for reelection next year, and has previously said she'd like to run for another eight-year term.) Duke still runs the juvenile detention center, earning \$98,000. And the system as a whole continues to grow.

In 2005, the budget for juvenile services, including court and detention center staff, was \$962,444. By 2020 it had jumped to \$3.69 million.

Earlier this year, Davenport went before the county commission's public safety committee. "I come to you this year with a huge need," she said. By now she had two full-time magistrates and another who worked part time. Davenport said she wanted an additional full-time magistrate. And another secretary. She wanted to increase her budget by 23%.

She also wanted to expand the system's physical footprint. A small school in the same building was closing, so Davenport proposed converting classrooms into an intake room and a courtroom.

The commissioners gave Davenport's budget request a favorable recommendation. Their vote was unanimous.

During the meeting, one commissioner, Michael Wrather, took a moment to express his admiration for the judge.

"I have said this for years and years," Wrather told Davenport. "If we have a judge that has a box in the courtroom with belts in it, that requires young people to put a belt on and hold their pants up in a courtroom, I'm all for it."

"Thank you, sir," Davenport said.

"Good job."

How We Reported This Story

When the four girls were arrested at Hobgood Elementary School in 2016, media covered the community's reaction and the immediate fallout. But left unknown was all that led up to the arrests; what the children, police and school officials, experienced, in their voices; and what the case revealed about the county's failed juvenile justice system as a whole.

To reconstruct the Hobgood Elementary case, we obtained through public records requests 38 hours of audiotaped interviews conducted by Murfreesboro police as part of their investigation. That investigation included interviews with the school's principal, Tammy Garrett, and 13 police officers, including Chrystal Templeton (who was interviewed twice for a total of seven hours), Chris Williams, Albert Miles III, Jeff Carroll and five higher-ups. Other materials we drew upon included videotape of the kids' scuffle; the final report of the Murfreesboro Police Department's internal review; the Metro Nashville Police Department's external review; juvenile petitions; settlement agreements; and an email that Miles wrote to an investigator describing his conversation with a parent.

For this story we interviewed dozens of people, including children arrested in the April 2016 case and their parents. We interviewed, for the first time, the kids (now adults) whose cases launched class-action lawsuits against the county over its illegal detention practices and use of solitary confinement. We obtained thousands of pages of documents through 56 records requests to city, county and state agencies. We obtained more than a dozen personnel files and reviewed court records in seven federal lawsuits.

Donna Scott Davenport declined to be interviewed. But we listened to or transcribed more than 60 hours of her on the radio. We obtained her deposition and hearing testimony from a class-action lawsuit. Other records we relied on included disciplinary records from the Tennessee Board of Judicial Conduct; two personnel files; memos and emails; videotaped appearances before the Rutherford County Commission and a canvass of appellate opinions in cases she had handled in juvenile court. We also listened to the oral arguments from some appellate cases.

Lynn Duke declined to be interviewed. But she often appears before the county's Public Safety Committee, and we watched and reviewed 137 of those meetings spanning 2009 to 2021. We obtained three depositions in which she was questioned. We reviewed her personnel file and drew upon her court testimony, memos and emails, as well as the detention center's written operating procedures.

We reached out to each of the police officers named in our story. They each declined to be interviewed or didn't respond. The sergeant who supervised Templeton also declined to be interviewed.

Michael Wrather, a Rutherford County commissioner, declined to be interviewed other than to say he stands behind his public comments praising Davenport.

We relied on reports and sometimes data from the Tennessee Department of Children's Services, the Tennessee Council of Juvenile and Family Court Judges, and the Tennessee Comptroller of the Treasury. We used Prison Rape Elimination Act audits and the 2004 consultant's report from Pulitzer/Bogard & Associates. We also drew upon reporting from fellow news organizations, including Murfreesboro's Daily News Journal, The Tennessean, the Murfreesboro Post and the Tennessee Lookout.

We're planning to continue reporting on the juvenile justice system in Rutherford County and elsewhere in Tennessee. If you have any stories that you'd like to share, please get in touch. Meribah Knight's email address is mknight@wpln.org, and Ken Armstrong's is ken.armstrong@propublica.org.

[Alex Mierjeski](#) contributed reporting.

Outrage Grows Over Jailing of Children as Tennessee University Cuts Ties With Judge Involved

In the days following a ProPublica and Nashville Public Radio report on juvenile justice in Rutherford County, the president of Middle Tennessee State University told staff Judge Donna Scott Davenport “is no longer affiliated with the University.”

by Meribah Knight, Nashville Public Radio, and Ken Armstrong, ProPublica

Oct 13, 2021

Co-published with Nashville Public Radio



A photograph of Judge Donna Scott Davenport from her biography page on Rutherford County, Tennessee's website.
Rutherford County, Tennessee

In the days after ProPublica's investigation of the juvenile justice system in Rutherford County, Tennessee, one state lawmaker wrote that she was "horrified." Another called it a "[nightmare](#)." A third labeled it "unchecked barbarism." A former Tennessee congressman posted the story about the unlawful jailing of kids and [tweeted](#), "The most sickening and unAmerican thing I've read about in some time." The NAACP Legal Defense and Educational Fund [called](#) for a federal civil rights investigation. A pastor, in his Sunday sermon in Nashville, said: "We can't allow this madness to continue. These are our babies."

And on Tuesday evening, four days after [the story](#) published, the president of Middle Tennessee State University notified faculty and staff that Donna Scott Davenport, a juvenile court judge at the heart of the investigation, "is no longer affiliated with the University." Davenport had been an adjunct instructor at the school, which is based in Murfreesboro, Tennessee. For many years, she taught a course on juvenile justice. In 2015, she was one of the university's commencement speakers.

Davenport did not respond to a request for an interview sent Tuesday evening. She declined to be interviewed for [our previous story](#). On Friday, [ProPublica published a detailed account, in partnership with Nashville Public Radio](#), about Rutherford County's juvenile justice system, which Davenport oversees. The story chronicled how the county had illegally arrested and jailed children for years and in June settled a class-action lawsuit, agreeing to pay up to \$11 million.

On Wednesday, a Rutherford County spokeswoman said in an email that she had not yet had the opportunity to consult with Davenport about the interview request. She provided a written statement from the county's mayor, Bill Ketron, which said in part, "I share our community's concerns over a news story that was recently released involving Rutherford County's juvenile justice system." The mayor's statement said that because of ongoing litigation in federal court, the county is "very limited in what can be discussed."

Davenport is a graduate of MTSU, where she earned associate's, bachelor's and master's degrees, according to a university [press release](#) from 2015. Davenport, in a monthly radio segment, has spoken frequently of her law enforcement background. In a sworn deposition in 2017, she said that while a student at MTSU she worked full time as a university police officer for two to three years. But her personnel file, obtained through a public records request to the university, showed her being a part-time dispatcher, then a full-time clerk-typist, then a full-time secretary.

This year, Davenport's LinkedIn profile said she had begun working as an adjunct at MTSU in 1996. (Her profile is no longer online.) She passed the bar one year earlier, in 1995, on her fifth attempt, she told lawyers in a deposition. In 1998, she was appointed to be a juvenile court referee, a position akin to a judge. In 2000, she won election to the newly created position of Rutherford County juvenile court judge, a job she has held ever since, winning reelection two times. She has said previously that she plans to run again next year for what would be an eight-year term.

Davenport's MTSU personnel file shows that when she taught a three-credit course on juvenile justice in the fall of 2020, she was paid \$2,400.

On Tuesday evening, a one-sentence email signed by MTSU's president, Sidney McPhee, was sent to the university's faculty and staff. "Adjunct instructor Judge Donna Scott Davenport, whose actions overseeing Rutherford County Juvenile Court have recently drawn attention in national media reports, is no longer affiliated with the University," it said. The president's message was also shared with students on Facebook.

We asked the university for an interview with McPhee. But an MTSU spokesman responded by email, "It is our practice not to comment on personnel matters." The president's one-sentence message "will likely be our only statement on this matter," the spokesman wrote.

On Sunday, Vincent Windrow, senior pastor at Olive Branch Church in Murfreesboro and Nashville, delivered a [sermon](#) at both branches centered on the revelations by ProPublica and Nashville Public Radio about Rutherford County's juvenile justice system. The story included a detailed account of Murfreesboro police

arresting four Black girls at an elementary school in 2016. The officers handcuffed two of the girls, including the youngest, an 8-year-old. The kids were accused of watching some boys fight and not stepping in. (They were charged with “criminal responsibility for conduct of another,” which is not an actual crime. All the charges were later dismissed.)

“How traumatic must it have been, as someone who is in elementary school, to be handcuffed? Were they going to resist arrest? As a 9-year-old, as a 10-year-old?” the pastor told the congregation in Nashville, according to a [video](#) of the sermon. “How in the world do we expect folk to respect law enforcement when they get treated with such a lack of dignity, such a lack of respect, such a lack of love?”

“How can we expect our children to grow up and admire police when they have been treated in such a contemptible way?”

“Who will it be next? Whose child will it be next? Let it end, and let it end now.”

Windrow also works at MTSU, where he serves as associate vice provost for student success. In his Sunday sermon he encouraged parishioners to call on the MTSU president and governing board to ask why Davenport was being allowed to continue on. “What is she teaching the students?” Windrow said. “What are they learning in their criminal justice administration classes? What is she trying to convey to them? More of the same?”

In Rutherford County, Davenport instructed police on what she called “our process,” telling them that upon arresting children, they should take them to the juvenile detention center. There, staff used a policy called the “filter system” to decide which children to hold. That system, broad and vague, was illegal. A federal judge ordered an end to it in 2017. Davenport oversees the juvenile detention center and appointed its director. In 2014, among cases referred to juvenile court, Rutherford County locked up children in 48% of its cases. The statewide average was 5%.

In 2015, in a commencement speech at MTSU, Davenport told graduates that to be successful, “you need to consider yourself in the people business,” according to a [video excerpt](#) of her address. She encouraged graduates to be “sincere, open-minded and fair.” A story on her speech in Murfreesboro’s Daily News Journal said Davenport listed honesty, integrity and a sense of justice as crucial traits.

After ProPublica published its story, Sherrilyn Ifill, president and director-counsel of the NAACP Legal Defense and Educational Fund, wrote a [thread](#) on Twitter; she said she was “horrified” and called on the U.S. Department of Justice to investigate. WKRN, a Nashville television station, published a [story](#) in which a state senator, Jeff Yarbro, said, “It’s a horror show plain and simple,” and state Rep. John Ray Clemmons, in a written statement, called it “unchecked barbarism,” adding, “we must admit that we’ve failed too many for far too long.”

Gloria Johnson, a state representative, [tweeted](#), “Our Democratic caucus will work to make sure this never happens again.” In an email to ProPublica, she wrote, “It is unimaginable and must be corrected.” State Sen. Heidi Campbell also wrote to ProPublica, saying of the story, “As you might imagine, we are all horrified by it.”

Tennessee Children Were Illegally Jailed. Now Members of Congress Are Asking For an Investigation.

Government officials called Rutherford County's juvenile justice system a "nightmare" that "boggles the mind." They are demanding answers about why children were "unjustly searched, detained, charged, and imprisoned."

by Meribah Knight, Nashville Public Radio, and Ken Armstrong, ProPublica

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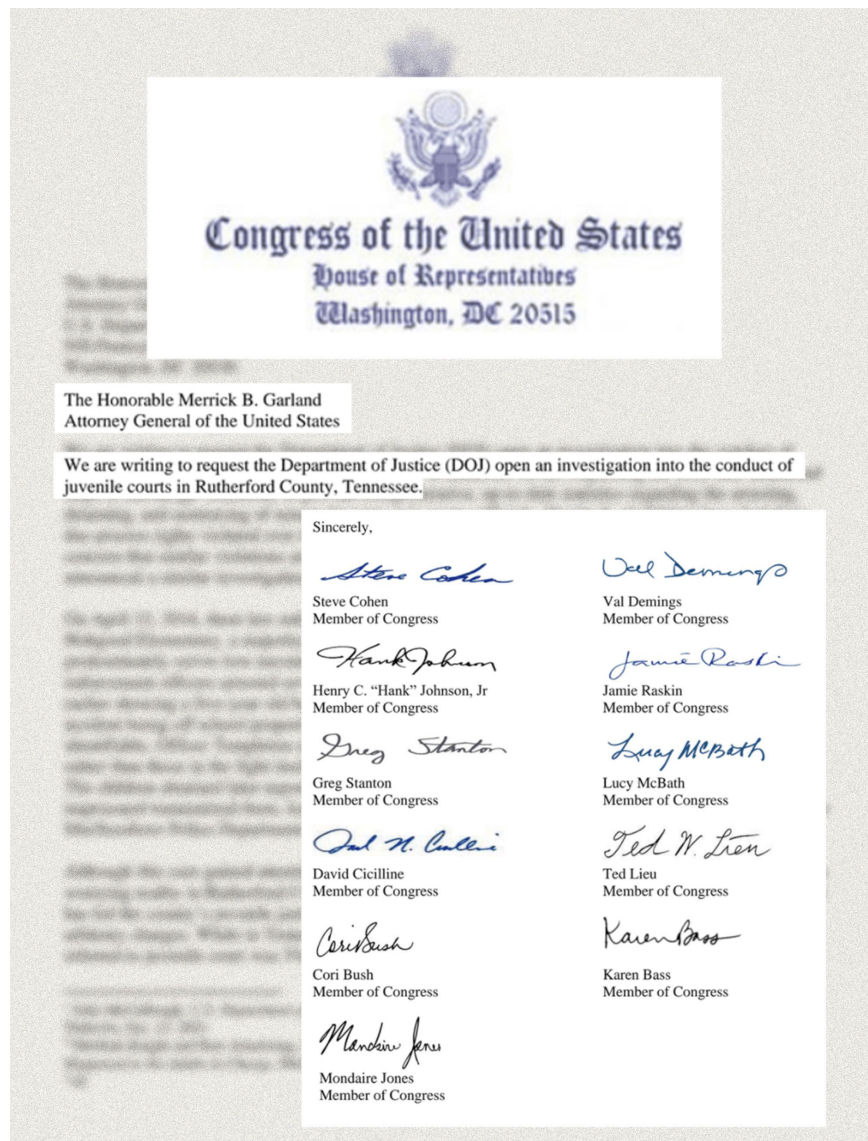


Photo Illustration by ProPublica

<https://www.propublica.org/article/tennessee-children-were-illegally-jailed-now-members-of-congress-are-asking-for-an-investigation>

Eleven members of Congress sent a letter Wednesday asking the U.S. Department of Justice to open an investigation into the juvenile justice system in Rutherford County, Tennessee, based on [reporting published](#) this month by ProPublica and Nashville Public Radio.

[The letter, sent to Attorney General Merrick Garland, says](#), “Tennessee’s children deserve to enjoy their childhoods without the fear of being unjustly searched, detained, charged, and imprisoned.” The letter’s signers, all Democrats, include Reps. Steve Cohen, from Memphis; Val Demings, from Florida; Cori Bush, from Missouri; and Ted Lieu, from California. Cohen is on the House Judiciary Committee and chairs the Subcommittee on the Constitution, Civil Rights and Civil Liberties.

[The ProPublica and Nashville Public Radio story](#) detailed how Rutherford County’s juvenile justice system had for years illegally arrested and detained children. A federal judge ordered the county to stop using an illegal detention policy in 2017. In June of this year, the county agreed to pay up to \$11 million to settle a class-action lawsuit brought by kids who alleged that they had been illegally arrested or jailed.

In 2014, the last year for which Tennessee published an annual statistical report on how many kids were jailed in cases referred to juvenile court, Rutherford County detained nearly 10 times the state average. The system is overseen by Donna Scott Davenport, the only elected juvenile court judge the county has ever had.

[The investigation](#) chronicled how the judicial commissioners’ office in Rutherford County approved a charge, “criminal responsibility for conduct of another,” to use against 10 children who had been accused of witnessing other kids in a fight and not stopping it. There is, in fact, no such charge. Rutherford County does not require judicial commissioners to have law degrees, and the two commissioners who were involved in that case are not lawyers.

The letter to Garland asks the Justice Department to investigate the role of judicial commissioners, as well as gaps in statewide data on the work of juvenile courts. “Without data, we do not know whether similar abuses to those perpetuated by Rutherford County are occurring in the state’s 97 other juvenile courts,” the letter said.

We emailed a request for comment to Ashley McDonald, a Rutherford County spokesperson who has also been handling interview requests for Davenport, this afternoon, but did not receive an immediate response. For an [earlier story](#) she released a statement from the county’s mayor, Bill Ketron, in which he said, “I share our community’s concerns over a news story that was recently released involving Rutherford County’s juvenile justice system.” A Justice Department spokesperson confirmed that the agency received the letter and is reviewing the request, but declined to comment further.

Last week, Tennessee Gov. Bill Lee’s office [called for a review](#) of Davenport. “We are concerned about the recent reports and believe the appropriate judicial authorities should issue a full review,” the governor’s press secretary wrote in an email.

Four days after the story was published by ProPublica and Nashville Public Radio, the president of Middle Tennessee State University notified faculty and staff that Davenport “[is no longer affiliated with the University](#).” Davenport had taught juvenile justice for many years at the school, which is based in Murfreesboro, the seat of Rutherford County.

This weekend, Joyce Vance, a former U.S. attorney in Alabama, [told MSNBC](#) that the operation of Rutherford County’s juvenile justice system “just boggles the mind.”

Joe Walsh, a former U.S. representative from Illinois, [tweeted](#): “I’m white. I’m conservative. But it’s shit like this that has helped convince me that systemic racism is real.” He exhorted people to read a [thread](#) about Rutherford County’s juvenile justice system, calling it “fucking disturbing.”

In Tennessee, several lawmakers expressed outrage. State Sen. Jeff Yarbro [tweeted](#), “This is so wrong on so many levels,” and called the juvenile detention practices of Rutherford County a “nightmare.” State Sen.

Brenda Gilmore also called the happenings in Rutherford County a “nightmare,” [saying](#), in a tweet, “This is a mess and we must do far better.” Meanwhile, Gloria Johnson, a state representative, [tweeted](#), “Our Democratic caucus will work to make sure this never happens again.”

In addition to the request from members of Congress, the NAACP Legal Defense and Educational Fund has also [called for a federal civil rights investigation](#) into Rutherford County’s juvenile justice system.

Under former President Donald Trump, the Department of Justice [retreated from civil rights investigations](#), seeing them as a form of federal overreach. In 2018, when ProPublica and the South Bend Tribune [reported on police misconduct in Elkhart, Indiana](#), Elkhart’s mayor even asked the Justice Department to investigate; the department never opened a probe.

Under President Joe Biden and Attorney General Merrick Garland, the Justice Department has been more likely to [use its power](#) to rein in abuses by local law enforcement. Since April, the department has opened at least five civil rights investigations, into the police departments in [Minneapolis](#), [Louisville](#) and [Phoenix](#) and into conditions in [Georgia’s prisons](#) and in [five juvenile detention facilities in Texas](#).

[Alex Mierjeski](#) contributed reporting.

Update, Oct. 20, 2021: This story was updated to note that a Justice Department spokesperson confirmed that the agency received the letter and is reviewing the request.